

Senate Health and Human Services Committee

Sophie Walsh 271-3469

SB 37, relative to residential care and health facility licensing.

Hearing Date: January 15, 2025

Time Opened: 9:18 a.m.

Time Closed: 9:37 a.m.

Members of the Committee Present: Senators Rochefort, Avard, Birdsell, Prentiss and Long

Members of the Committee Absent : None

Bill Analysis: This bill revises residential care and health facility licensing requirements by (1) requiring licensed residential care facilities to have quality assurance programs; (2) requiring the results of any investigation be posted in a conspicuous place in the facility; (3) requiring facilities to post the results of Life Safety inspections known as “notices to correct;” (4) removing a redundant reference to administrative fines; (5) changing the term “hospital” to the term “facility;” and (6) removing the word “continuing” from the initial education requirements and replacing the term “ongoing training” with continuing education in the annual training requirement. The bill is a request of the department of health and human services.

Sponsors:

Sen. Pearl
Rep. M. Pearson

Sen. Birdsell
Rep. Grote

Sen. Rosenwald

Who supports the bill: Kate Lipman for Sen. Pearl, Atty. Danielle Worboys and Kelly Keefe (DHHS), Brendan Williams (NH Health Care Association), Susan Buxton (Office of the Long-Term Care Ombudsman), Jake Berry (New Futures), Carolyn Virtue, and Sen. Rosenwald.

Who opposes the bill: Curtis Howland.

Who is neutral on the bill: Ben Bradley (NH Hospital Association) and Sen. Prentiss.

Summary of testimony presented:

Kate Lipman on behalf of Senator Pearl, Senate District 17

- Ms. Lipman stated that this bill is a request from the Department of Health and Human Services (DHHS) and explained the key points of the bill.

- Section 1 revises RSA 151:5-c to make quality assurance programs mandatory for licensed residential care facilities.
- Section 2 amends RSA 151:6 to expand the types of residential care and health facilities that may be investigated by DHHS for violations. It also requires the results of those investigations to be posted in a conspicuous place in facilities and requires posted results to include facilities, the services investigated, and the results.
- Section 3 amends RSA 151:6 sections a-c to require those facilities to post results of life safety inspections.
- Section 4 amends RSA 151:16-b by removing the words “administrative fine”, as they are already covered in a previous section.
- Sections 5 and 6 amend the Patients' Bill of Rights by replacing the word “hospital” with the word “facility” in two places. This allows the Patients' Bill of Rights to apply to more types of facilities.
- Section 7 amends RSA 151:50 by removing the word “continuing” from the initial education requirements and replacing the term “ongoing training” with “continuing education” in the annual training requirement.
- Ms. Lipman explained that a committee amendment will be needed to make a technical correction to section 6 by changing the term “hospital” to “facility” on page 2 line 9.

Kelly Keefe & Atty. Danielle Worboys, Department of Health and Human Services

- Ms. Keefe introduced herself as the Licensing Unit Chief for the Bureau of Licensing and Certification at DHHS.
- Atty. Worboys introduced herself as the General Counsel and Legislative Liaison for the Bureau of Licensing and Certification at DHHS.
- Ms. Keefe stated that DHHS is in support of this legislation, as it is a departmental request.
- The intent of the bill is to ensure patient safety and well-being by requiring transparency of healthcare facilities, to improve patient care and outcomes, and to reduce adverse effects.
- Ms. Keefe reviewed the changes to existing statute proposed by this bill.
- Senator Rochefort referenced making the quality assurance program mandatory and confirmed that accreditation and organizations that oversee some of these facilities would already be requiring this.
- Ms. Keefe confirmed this and explained this bill is specific to residential care facilities that are not accredited or certified. She said there is a section in RSA 151 applicable to hospitals and home-health, which is usually certified and requires it as well.
- Senator Rochefort referenced posting investigation results and confirmed that these results would be fully adjudicated. Ms. Keefe confirmed.

Carolyn Virtue

- Ms. Virtue explained that she had a concern about this bill when it was first released that was related to what turned out to be a misunderstanding.
- She referenced section 1 regarding health facility licensing and stated that her agency is licensed under the homecare licensure statute.
- She explained that her agency has had some issues with the Department refusing to honor statutory confidentiality, so she was concerned about that not being included.
- She has since been assured that this statute only relates to residential care facilities and expressed gratitude to the Department and Senator Pearl for alleviating her concerns.

Jake Berry, New Futures

- Mr. Berry stated that New Futures is in strong support of this bill.
- In New Futures' work around patient protections, they have found that enhancing public awareness is very important in protecting the health and safety of individuals and families.
- New Futures supports the Department's work to certify healthcare providers and hold them to high standards. However, outcomes of investigations can be difficult for patients to access and often remain hidden from view when this information is needed the most.
- This bill will make information more available to patients and families, who are often at their most vulnerable.
- Mr. Berry does not know that this will prevent all violations and misconduct, but it will help patients be aware and make informed decisions to support their own health and safety.
- This will enhance public confidence in our healthcare system and help hold healthcare providers to higher standards to enhance patient protection and safety.

Susan Buxton, State Long-Term Care Ombudsman

- Ms. Buxton stated that the Office of the Long-Term Care Ombudsman is a required program in states receiving federal funds from the Older Americans Act.
- Their office works to resolve problems related to health, safety, rights and welfare of individuals who live in long-term care facilities. This is done through investigation, mediation, education, and advocacy.
- The State Commission on Aging exists to advise the governor and legislature on issues related to aging. The Commission has studied long-term care issues and supports increasing transparency of care environments.

- There are two types of inspections: annual or complaint inspections. There are two areas of inspection: health issues or life safety.
- Current New Hampshire law does not require any inspections regarding life safety or complaint inspections to be public.
- Under federal law, all inspections for nursing homes are made public. It is only assisted living, residential, and supported residential care that has a limited amount of information available. Ms. Buxton said this is a public safety concern, as vulnerable adults and their caregivers should have access to this information.
- The Office of the Long-Term Care Ombudsman also works to investigate and resolve complaints filed by individuals in long-term care or their families. DHHS is also involved in this process to ensure regulatory compliance.
- There have been complaint investigations that have resulted in DHHS identifying regulatory non-compliance, but complainants are barred from seeing the results of those findings. This lack of transparency is problematic, creating an environment of distrust. This bill would correct those issues.

Ben Bradley, NH Hospital Association

- Mr. Bradley said he understands this bill is a request of the Department, making changes to RSA 151.
- Given that hospitals comply with requirements from the Center for Medicare & Medicaid Services (CMS), the NH Hospital Association has expressed interest in working with the Department to ensure the State does not enact redundancies that would create unnecessary regulatory burdens for hospitals.
- In Mr. Bradley's conversations with the Department, DHHS has been willing to work with the NH Hospital Association in gaining their support for this important piece of legislation.
- CMS already conducts complaint investigations and publishes the results of any investigation with a substantial deficiency in the last six months on their quality, certification, and oversight reports website.
- Mr. Bradley said he appreciates the Department's willingness to work with them on this bill.