

Senate Executive Departments and Administration Committee

Kevin Condict 271-7875

HB 233, requiring meetings of the New Hampshire vaccine association to be audio and video recorded and published on its website within 48 hours.

Hearing Date: April 9, 2025

Time Opened: 2:09 p.m.

Time Closed: 2:33 p.m.

Members of the Committee Present: Senators Pearl, McGough, Gannon, Altschiller and Reardon

Members of the Committee Absent : None

Bill Analysis: This bill requires meetings of the New Hampshire vaccine association to be audio and video recorded and published on its website within 48 hours.

Sponsors:

Rep. Comtois

Rep. J. Aron

Rep. Belcher

Rep. Love

Rep. Perez

Rep. Polozov

Rep. Potenza

Rep. Wheeler

Rep. Wherry

Who supports the bill: In total, **77** individuals signed in in support of HB 233. The full sign in sheets are available upon request to the Legislative Aide, Kevin Condict (kevin.condict@gc.nh.gov).

Who opposes the bill: In total, **7** individuals signed in in opposition of HB 233. The full sign in sheets are available upon request to the Legislative Aide, Kevin Condict (kevin.condict@gc.nh.gov).

Who is neutral on the bill: None.

Summary of testimony presented:

Representative Barbara Comtois, Belknap 7

- Rep. Comtois introduced House Bill 233.
- Rep. Comtois said the meetings for the New Hampshire Vaccine Association (NHVA) are already done over Zoom. She said that all this bill asks is that their meetings be published on their website.

- Rep. Comtois said this would allow the public to see the meeting if they could not attend.
- Sen. Pearl asked if the meetings occur on Zoom and that there is no other public record of them.
 - o Rep. Comtois said that they have meeting minutes. She confirmed that the meetings are done over Zoom.

Patrick Miller, New Hampshire Vaccine Association

- Mr. Miller explained that he is the Executive Director of the NHVA.
- Mr. Miller said that what is being asked for in the bill is more than just that the meetings be published on the website.
- Mr. Miller said this would subject the NHVA to RSA 91-A.
- Mr. Miller stated that the NHVA is opposed to this bill.
- Mr. Miller said the NHVA is not a public entity and does not meet the attorney general's definition of an entity under 91-A. He said the NHVA does not receive any funds from the State; all costs are borne directly from the health insurers that participate. He said the NHVA does not affect vaccine policy, and to his knowledge they are the only 501(c)(3) non-profit corporation in the state that would be subjected to 91-A.
- Mr. Miller explained that they have multiple points of governmental transparency already. He said the NHVA has commissioners from the New Hampshire Insurance Department (NHID) and the Department of Health and Human Services (DHHS) serve as ex-officio members by statute. He explained that they have a governing plan of operation, which is reviewed regularly by the Commissioner of the NHID.
- Mr. Miller explained that they relay the individual payer's information to NHID. He said the NHVA also has an external report and audited financial statements that are sent to the commissioner of DHHS, the governor, the speaker of the House, and the president of the Senate.
- Mr. Miller said that through 91-A and the public meeting component, this bill would increase the NHVA's administrative costs, which are borne entirely by the health insurers and third-party administrators.
- Mr. Miller said the NHVA has also adopted an expansive public access policy. He pointed to the list of things they already do included in his written testimony.
- Sen. Pearl asked if the NHVA's meetings are publicly noticed.
 - o Mr. Miller said that they are. He said it is not required but they notice meetings seven days in advance.
- Sen. Pearl asked for confirmation that the public is welcome to join the meetings.
 - o Mr. Miller said that is correct. He noted that they do have the public at most of their meetings.
- Sen. Pearl asked Mr. Miller to describe the tasks and purpose of the vaccine association.

- Mr. Miller explained that the NHVA is twenty-three years old. He said it was initially created under state statute and RSA 126-Q is the governing organization. He explained it was initially created because the health insurers, who are the payers, wanted to find a way to create an equitable funding mechanism. He said it is essentially a commercial transaction that takes place. The NHVA was set up to collect assessments from the insurance companies, of which ninety-one are currently participating. The funds are remitted to the State and DHHS blends federal and commercial money to purchase vaccines at a discount to make sure that everything is available for the providers that participate. He said there are over two hundred locations that participate in the program.
- Mr. Miller said the NHVA has low administrative costs; they are running at about \$160,000 per year on a \$24 million budget. He said the public meeting component alone would add about eleven or twelve percent to their budget.
- Mr. Miller said he believes there are many misconceptions about the organization and that fundamentally the NHVA is allowing the insurance companies to procure vaccines at about a thirty percent discount. They also remove administrative bills between the providers and the companies. He reiterated that no State funds are part of the program.
- Sen. Pearl asked Mr. Miller if he would agree there is a public interest in the things that the NHVA does.
 - Mr. Miller agreed and said that is why they have adopted the various transparency policies.
- Sen. McGough asked if many similarly affiliated organizations put their meetings online for simple convenience. He asked what the harm is in posting meetings online.
 - Mr. Miller said they could figure out a way to record meetings and post them on the website. He said the bigger issue is that under 91-A, this bill would require publicly held meetings. He said they are not able to have meetings at NHID or DHHS due to prior disruptions of their meetings. He said in terms of hotel space, audio/video being able to transmit the meeting live, and security it would cost about \$21,000 per year.
- Sen. McGough pointed to line 4. He asked if the principal objection is the requirement to comply with 91-A.
 - Mr. Miller said that is correct.
- Sen. McGough noted that the NHVA is organized as a 501(c)(3) and a government affiliate. He asked why 91-A would not be appropriate.
 - Mr. Miller said it ties back to the right to know memorandum from the Office of the Attorney General. He noted that the most updated memorandum from 2024 includes two definitions in terms of 501(c)(3) organizations. He stated that the NHVA does not meet either of those definitions. He said they have had an access policy for a decade.
- Sen. Pearl asked if the NHVA could decide to record their meetings and make them available.

- Mr. Miller said they could. He said that other 501(c)(3) organizations had been created by the State in the past and none of the others had the same expectation.
- Sen. Pearl asked if the NHVA had interest in doing this on their own, so the legislature does not need to.
 - Mr. Miller said they do. He said the bigger issue with this bill is the 91-A language. He said if it is possible to remove that language and focus on the meeting side then the NHVA would be happy to consider that.

Kate Frey, New Futures

- Ms. Frey questioned the impact on other nonprofits. She said it seems to be an additional requirement that is not expected of currently.

Laura Condon

- Ms. Condon stated her support for the bill.
- Ms. Condon said this bill is a way to ensure transparency in this quasigovernmental association which includes DHHS and NHID as voting members on the Board of Directors. She noted that the NHVA engages in a \$40 million vaccine purchase each year with little oversight or reporting.
- Ms. Condon said now would be a great time for this bill, as there is a growing mistrust of vaccines and government, as well as clear evidence of censorship. She said this is a simple, inexpensive, commonsense public disclosure of DHHS' revenue source and the expenditures.
- Ms. Condon explained that she served on the NHVA for five years. She said she worked to adopt greater transparency. She said that in recent years she has found that the Board of Directors and DHHS have actively hidden information from people. She said that many of her questions and concerns were editorialized in meeting minutes.
- Ms. Condon explained that she has sent 91-A requests to the Board. She said they complied with the first two requests on the advice of their counsel, but that after two requests the Board stopped recording their meetings without public notice.
- Ms. Condon stated that you know someone is up to no good when they work extra hard to avoid transparency and disclosure.
- Ms. Condon said this bill simply requires the NHVA to restore their previous practice of recording their meetings and now posting them for public access.
- Ms. Condon said this is not a requirement that every nonprofit in the state post their meetings.
- Ms. Condon reiterated that the NHVA is a quasigovernment agency that has DHHS, and two of their appointees, and NHID on their board. She said they govern forty percent of the Board.

- Ms. Condon said that the NHVA claims to be a regular nonprofit organization, but it is an agency of DHHS.
- Ms. Condon directed the Committee's attention to a letter from the NHVA's auditor, which was included in her written testimony. The letter discussed federal form 990, which is the federal tax return that every other nonprofit would file. She said that in the letter, the auditor noted on their waiver that the NHVA is an affiliate of government.
- Ms. Condon said that she has submitted a 91-A request to DHHS for a copy of their audit of the immunization division for the past two years. She said DHHS wrote back to her saying they had never been audited.
- Ms. Condon said that the NHVA's auditor is the only auditor who has ever had their eyes on the NHVA books since it was established in 2002. In her letter, that auditor stated that if dissolved the NHVA's assets would be distributed to the State of New Hampshire.
- Ms. Condon said it would be simple and inexpensive to reestablish recording of their Zoom meetings and posting them online.
- Ms. Condon stated that since this bill was introduced the NHVA has retaliated by no longer providing any details of public comments they receive in their meeting minutes. She said nearly one hundred percent of the public comments they receive are hers, and that they are relative to the business association being in compliance with their policy of public commentary. She said for their most recent meetings, instead of briefly commenting on the comments or questions she raised they now only note that public comments were received. She said no one will ever know the important comments or questions that were raised.
- Ms. Condon said it is clear the NHVA is engaged in millions of dollars of purchases that are not authorized by statute and there are millions of dollars in waste. She said these costs are unfairly passed onto taxpayers, businesses, and insurance consumers.
- Ms. Condon said that when she was a board member, there were discussions regarding compliance with 91-A. She said it was the policy of the Board to engage in compliance as if they were an entity subjected to 91-A.

Representative Stephen Pearson, Rockingham 13

- Rep. Pearson made himself available for questions as a House Executive Departments and Administration Committee member.
- Rep. Pearson stated that the House committee received bipartisan testimony in favor of this bill.
- Rep. Pearson said the new generation of people expect different things now. He said that simply writing minutes is somewhat ancient to them.
- Sen. Pearl asked if the House committee investigated pushing a 91-A requirement onto a non-government agency.
 - o Rep. Pearson said this is not a broad list of requirements. He noted that the bill only mentions the NHVA, and it would only apply to them. He

said he could not predict the future, and that the legislature could only take things as they are filed. He said there is no intention for this to be applied broadly.

- Sen. Pearl asked if they did any legwork to examine unintended consequences.
 - o Rep. Pearson said the only answer they received was that it would only apply to the NHVA. He noted that Rep. McGuire brought forward that information.
- Sen. Reardon asked if the House committee contemplated changes to 91-A to make this bill work.
 - o Rep. Pearson said that opening up RSA 91-A in the General Court would be so far reaching that he was unsure if anyone would dare touch it.
- Sen. Reardon asked if 91-A touches nonprofits.
 - o Rep. Pearson said that if the nonprofit functions in the form of and alongside government than it does.

KC

Date Hearing Report completed: April 14, 2025