

Senate Health and Human Services Committee

Sophie Walsh 271-3469

HB 70-FN, relative to the use of electronic medical records.

Hearing Date: April 9, 2025

Time Opened: 9:45 a.m.

Time Closed: 10:11 a.m.

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

Members of the Committee Absent: None

Bill Analysis: This bill prohibits health carriers from requiring that providers use electronic medical records.

Sponsors:

Rep. Nagel

Rep. Kofalt

Who supports the bill: Rep. David Nagel, Rep. Janet Lucas, Hon. Jerry Knirk, Jessica Sherman, Nancy Husarik, Dr. Andrew Rosen, Daniel Richardson, Brenna Stapp, Cathryn Stratton (NH Medical Society), Emily Zajano, and John DeJoie (NH Psychological Association).

Who opposes the bill: Cam Lapine (Cigna), Sabrina Dunlap (Anthem), Peter Bragdon (Harvard Pilgrim), Danielle Doughty, Bruce McAdam, Roz Lowen, Penny Reynolds, and Sarahlynn Williams.

Who is neutral on the bill: No one.

Summary of testimony presented:

Representative David Nagel, Belknap – District 6

- Representative Nagel stated that he is re-introducing this bill from last year with some changes. He provided an amendment to the Committee that came out of discussions with insurance carriers.
- He explained that he speaks all over the country on issues such as access and cost of care. He has heard from patient and doctor groups that electronic medical records (EMR) are a problem. This bill is designed to fix that.
- Representative Nagel outlined two guiding principles. The first is the patient-doctor relationship is the most important diagnostic, therapeutic and human

tool in healthcare. The second is EMR was created without a clear look at the unintended consequences.

- He explained that page 2 of the bill outlines the issues he potentially sees with EMR.
- EMR creates excessive and unnecessary costs. Representative Nagel spoke with Lakes Region Mental Health and learned that they paid \$1 million upfront for their EMR, and it will cost \$200,000-300,000 yearly to maintain it.
- EMR threatens the existence of private practice. The cost of trying to conform is astronomical; most practices can't do it and are thus selling out.
- Representative Nagel explained that when President George Bush introduced the concept of EMR, he said that computerizing healthcare records could avoid dangerous medical mistakes, reduce costs, and improve care. Representative Nagel said this implied that we would actually communicate with each other, and this has not happened.
- He emphasized that EMR does virtually nothing to promote communication and has created fragmentation between providers.
- He noted that when this was created, Centers for Medicare and Medicaid Services (CMS) withheld 15% of their fee if one does not cooperate.
- He emphasized that this is a major cause of burnout for providers and is the reason doctors are retiring young, going into specialties, and can only spend 10 minutes with their patients instead of an hour.
- Representative Nagel stated that this bill is a solution to a very real problem. With the changing landscape of healthcare and for-profit entities buying out places in the state, commercial insurers aren't mandating this now, but they will in the future.
- He emphasized that he wants to allow doctors to go into private practice without having to absorb ridiculous upfront costs.
- He noted there is a precedent for this, as a prior authorization bill was passed last year that allows prior authorization requests to be submitted electronically or not.
- Senator Rochefort asked if there are private payers that are requiring going to EMR.
- Representative Nagel explained there are none within the state. He emphasized that he sees this as a prevention for something that will come.
- Senator Rochefort referenced item (c) of the bill restricting the requirement of any specific format. He noted that he thinks format would be a requirement of functionality knowing how these things are transmitted.
- Representative Nagel explained he included this because you cannot require someone to use a template. He personally chooses to use a narrative of what his thought process is, and would have an issue with being required to use a template.

- Senator Rochefort asked if there are EMR standards around transmitting data.
- Representative Nagel explained that he does not know about the transmission aspect, but aside from that there are not really standards.
- He explained that if you put enough bullets into your notes, you can bill more. People have found strategies to use more bullets to bill more.
- Senator Prentiss asked if it is his opinion that moving to EMR forces private practitioners into larger health systems.
- Representative Nagel said that is part of it, as it is all about costs and complexity. He explained that the complexity and costs regarding EMR can become overwhelming, resulting in people selling out.
- Senator Prentiss explained that she remembers this bill from last year when Representative Nagel emphasized how this is an issue for specialty practices. She explained that while EMR can link an entire experience, it does not always link communication and lead to conversations. She asked if we are missing the conversations we used to have.
- Representative Nagel said no one is communicating anymore and emphasized that there is no substitute for face-to-face communication. Not having proper communication is harming patients.
- He noted that the United States is ranked 69 out of 104 countries worldwide as a healthcare system. He emphasized that we fare worse is in communication, cost, and access. He said this is a fixable problem and emphasized that EMR itself is not bad, but the current format of it is.
- Senator Prentiss asked if it is his opinion that EMR and verbal communication can coexist in the best world, and Representative Nagel said they could with effort.

Sabrina Dunlap, Anthem

- Ms. Dunlap stated that she is speaking in opposition to the bill. She appreciates that Representative Nagel is willing to engage in conversation.
- Ms. Dunlap said she believes this bill is a solution in search of a problem that takes New Hampshire in the wrong direction.
- She explained that the move to EMR happened decades ago, and for better or worse, this is the direction that medicine has gone and continues to go.
- She noted that CMS led the charge on this, and this is not something pushed by insurance companies.
- Ms. Dunlap explained that they do not force providers to use EMR, but to the extent that providers use EMR, we need to be able to use it properly.
- Ms. Dunlap said one of the issues with this bill is it restricts how EMR is used in cases where it is already in use.

- Ms. Dunlap referenced item (d) of the bill and explained this is at odds with reality in certain situations, as sometimes they may need more information than what is listed in the bill.
- She emphasized that they hear the grievances, but they also hear from providers who like EMR.
- Ms. Dunlap explained that if the intent is to turn back the clock on EMR, the bill does not accomplish that. It restricts providers from using EMR properly and their ability to do basic functions with providers.
- Ms. Dunlap asked if the Committee proceeds with the bill that the effective date be changed to January 1st.
- Senator Rochefort asked if it is accurate to Ms. Dunlap's experience that no private health carriers require EMR, and she confirmed.
- Senator Rochefort referenced item (c) of the bill and asked if it would be helpful to have a standardized method of communication.
- Ms. Dunlap confirmed and noted that most of the requirements come from CMS.

Cam Lapine, Cigna

- Mr. Lapine reiterated the points made by Ms. Dunlap.
- While he has not seen the amendment yet, based on verbal description he does not believe the amendment addresses their concerns.