

Senate Health and Human Services Committee

Sophie Walsh 271-3469

HB 548-FN, relative to licensing requirements for health care facilities that operate on a membership-based business model.

Hearing Date: April 16, 2025

Time Opened: 11:16 a.m.

Time Closed: 11:52 a.m.

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

Members of the Committee Absent: Senator Birdsell

Bill Analysis: This bill exempts direct-pay health care facilities from certain licensing requirements and policies in RSA 151:2-f as well as the moratorium on licensing and bed capacity in RSA 151:2, VI(a) provided that the facility is not a nursing home or skilled nursing facility. The bill also establishes a patient's bill of right for direct-pay facilities and directs the department of health and human services to study direct-pay models.

Sponsors:

Rep. McLean
Sen. Sullivan

Rep. Kofalt

Rep. Warden

Who supports the bill: 127 people signed in support of the bill. Full sign in sheets are available upon request by contacting the Legislative Aide, Sophie Walsh (Sophie.Walsh@gc.nh.gov).

Who opposes the bill: 13 people signed in opposition of the bill. Full sign in sheets are available upon request by contacting the Legislative Aide, Sophie Walsh (Sophie.Walsh@gc.nh.gov).

Who is neutral on the bill: No one signed in neutral to the bill. Full sign in sheets are available upon request by contacting the Legislative Aide, Sophie Walsh (Sophie.Walsh@gc.nh.gov).

Summary of testimony presented:

Representative Mark McLean, Hillsborough – District 15

- Representative McLean explained that we are very innovative when it comes to healthcare, but the healthcare system's infrastructure is calcified.

- The Affordable Care Act tackled some of the system's issues and expanded access in the short term through Medicaid expansion. Today, however, rural areas are in freefall and promised price reductions have not been realized.
- Representative McLean explained that this bill is part of a tapestry of legislation introduced in the House to address issues with the healthcare system.
- This bill takes after the primary care direct-pay model that was passed into law three terms ago.
- Supporters of this believe it will open up the healthcare marketplace a little bit to expand pricing transparency, choice, and competition.
- This bill grants the ability to opt-out of the all-payer requirement currently in state law to facilities that exclusively receive payment directly from the patient. As a result, these facilities will have completely upfront pricing and may be attractive to self-insured or uninsured patients.
- Representative McLean said this will create competition and hopefully incentivize current providers to assess how they can make their own pricing more transparent.
- Representative McLean acknowledged that some may say the transparency of this model will drive critical access hospitals (CAHs) into bankruptcy or closure.
- He explained that there is a surgery center in Oklahoma that has been in operation for twenty-eight years offering upfront pricing on their services. He explained that this is not overrunning the system, as a second center like this has not since been built in Oklahoma.
- Representative McLean said this example shows that if we allow direct-pay facilities in New Hampshire, the uptake would be modest at best.
- Furthermore, he believes that if a facility were to come to New Hampshire, it would not locate itself in rural areas served by CAHs.
- Representative McLean acknowledged that some may say this does not provide a clear path to sustainable and affordable access. He agreed that there is no singular solution that is going to solve all of our issues, but emphasized that the strength of this bill is in opening the marketplace to explore options that have not even been thought of yet.
- Representative McLean distributed amendment language to the Committee and explained that this was drafted by the Association of Counties. The bill was amended in the House to eliminate the creation of nursing homes using the direct-pay model, but this amendment further clarifies it.
- Representative McLean noted that the amended version of the bill was put into the budget, but it does not contain the clarifying amendment language distributed to the Committee.

- Senator Rochefort noted that he could not find a definition for intermediate care facilities in the statute and asked if there is a definition.
- Representative McLean said he is not a subject matter expert, but his understanding is that an intermediate care facility would be for children and young adults with needs that cannot be handled through outpatient care.
- Senator Rochefort asked if this is being inserted into the correct section of law, and Representative McLean confirmed.
- Senator Rochefort noted that he could also not find a definition for membership-based model in statute and said he wants to make sure the law matches our understanding.
- Representative McLean said he believes it is in the statute for direct primary care.

Jerry Knirk, Former Representative of Carroll – District 3

- Dr. Knirk stated that he is speaking in opposition to this bill and will be focusing his testimony on section 4.
- He said it is important to realize that the Medicaid reimbursement rate is significantly lower than the cost of treating.
- Intermediate care facilities, rehabilitation hospitals, and rehabilitation facilities need to be able to make up some of that revenue from self-pay patients and patients with commercial insurance.
- Dr. Knirk explained that the healthcare system does not function like a free market. While proponents of this approach say it allows the free market to function, this does not provide the level playing field that the free market needs.
- This would allow a small number of for-profit institutions to cherry pick the healthy, uncomplicated patients, thus shifting other patients to other facilities. This will have an adverse fiscal impact on these institutions and could ultimately drive-up costs and potentially lead to closures.

Greg Moore, Americans for Prosperity – New Hampshire

- Mr. Moore stated that he is speaking in support of this bill.
- He provided a history of the Certificate of Need (CON) process, noting that in 2019 direct primary care legislation was passed and this bill is a natural follow-through.
- He explained that the rationale for this is that by eliminating third-party payment structures, New Hampshire patients can save a lot of money.
- He said this is a fantastic opportunity. While it will only impact a limited number of people, it would have a significant impact on them and would not have a significant impact on existing resources.
- He noted that if the current law surrounding CAHs remains in place, this would only focus on the southeast portion of the state.

David Ross, New Hampshire Association of Counties

- Mr. Ross stated that he is speaking in opposition to the bill as written, but can support the bill with the amendment language submitted to the Committee by Representative McLean.
- The counties are responsible for the non-federal share of Medicaid for residents receiving long-term services and supports.
- Mr. Ross' concern with the bill as written is that it will increase the costs for counties overall by increasing the population of Medicaid recipients in nursing facilities.
- This will have a significant impact in diluting the amount of people paying in nursing facilities, which will have an impact on taxpayers.

Ben Bradley, New Hampshire Hospital Association

- Mr. Bradley stated that he is speaking in opposition to this bill.
- He believes it bifurcates the healthcare system into two classes of patients and sets up a regulatory framework that treats facilities differently based on whether a patient direct-pays.
- Mr. Bradley also noted that it appears as though facilities licensed with a membership-based business model would not have to follow CMS conditions of participation.
- The New Hampshire Hospital Association's interpretation of the bill is that healthcare facilities licensed as a membership-based business model could discriminate against individuals based on their ability to pay a membership fee. They do not believe this is in the best interest of patients seeking care in these facilities nor of the healthcare system in New Hampshire.
- Mr. Bradley explained that this bill establishes a separate Patient Bill of Rights.
- He noted that the bill's Patient Bill of Rights does not include some important rights, such as: the right that patients shall not be denied admission to a facility based on Medicaid as source of payment when there is an available space, the right of patients to have access to any provider in their insurance plan network and referral to a facility within such network to not be unreasonably withheld subject to the terms and conditions of the patient's insurance plan, the right of patients to have visitors, and the right of patients to not be denied admission, care or services based solely on vaccination status.
- Mr. Bradley believes this bill is deeply flawed and is not yet ready for prime time.
- Senator Rochefort referenced section 6 of the bill and asked if Mr. Bradley would support a study to examine the impact of direct-pay models on the healthcare system.

- Mr. Bradley said the Hospital Association stands by the basic premise that the healthcare system should not be bifurcated based on a patient's ability to pay.
- Senator Rochefort confirmed that the Hospital Association could not support this even if it was just a study.
- Mr. Bradley said he does not think it is in the legislature's interest to be studying something that disrupts patient care and could have significant consequences.
- Senator Prentiss asked if this is just applying to the people who can pay these bills and have the best insurance.
- Mr. Bradley said he would describe it largely as patients who do not need to have insurance and can pay out of pocket.
- He questioned what would happen in situations when these people need emergency care, surgery, or another service that they would not be able to pay for out of pocket. He said he would expect that when these things come up, they will need insurance to pay; otherwise, the providers will end up going without payment.

Bob Dunn, Diocese of Manchester & Catholic Charities New Hampshire

- Mr. Dunn stated that he is speaking in opposition of this bill due to the unintended consequences for nursing homes.
- Catholic Charities is the largest non-governmental provider of nursing home care in New Hampshire.
- Mr. Dunn said it is important to remember that nursing home funding is based on a three-legged stool.
- Medicaid is the life blood of nursing homes with an average of 60-70% of people in New Hampshire nursing homes on Medicaid. However, because it is underfunded, nursing homes must rely on other streams of revenue.
- Rehabilitation care and private pay make up the Medicaid shortfall for nursing homes, but this bill compromises these revenue streams.

Aubrey Freedman

- Mr. Freedman stated that he is speaking in support of this bill.
- He does not think this is going to affect a lot of people, as this is applicable to mostly wealthy individuals who have a fair amount of resources and would be interested in the membership model.
- Mr. Freedman referenced the Patient's Bill of Rights and explained that he knows some people who utilize direct-pay primary care offices and are very happy with their experience. He assumes they have supplemental insurance as well.
- Mr. Freedman emphasized that cost transparency is very important.

SW
Date Hearing Report completed: April 22, 2025