

HB 548-FN - AS AMENDED BY THE HOUSE

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2025 SESSION

25-0265

05/02

HOUSE BILL

548-FN

AN ACT relative to licensing requirements for health care facilities that operate on a membership-based business model.

SPONSORS: Rep. McLean, Hills. 15; Rep. Kofalt, Hills. 32; Rep. Warden, Hills. 39; Sen. Sullivan, Dist 18

COMMITTEE: Health, Human Services and Elderly Affairs

AMENDED 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.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT relative to licensing requirements for health care facilities that operate on a membership-based business model.

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

1 1 Residential Care and Health Facility Licensing; License or Registration Required;
2 Moratorium; Exception for Membership-Based and Direct Payment Facilities. Amend RSA 151:2,
3 VI(a)(1) to read as follows:

4 (1) No new license shall be issued for, and there shall be no increase in licensed
5 capacity of, any nursing home, skilled nursing facility, intermediate care facility, or rehabilitation
6 facility, including rehabilitation hospitals and facilities offering comprehensive rehabilitation
7 services. This moratorium shall not apply to:

8 **(A) Any facility that is not a nursing home or skilled nursing facility,**
9 **that operates on a membership-based business model or exclusively provides services to**
10 **persons who make direct payment for services;**

11 **(B)** Any rehabilitation facility whose sole purpose is to treat individuals for
12 substance use disorder or mental health issues; or [tø]

13 **(C)** Any continuing care facility for which a certificate of authority has been
14 issued by the insurance commissioner pursuant to RSA 420-D:2.

15 2 Patients' Bill of Rights; Definitions; Direct Payment and Membership-Based Facilities.
16 Amend RSA 151:19, II to read as follows:

17 II. "Facility" means any hospital, building, residence, or other place or part thereof, licensed
18 under the provisions of RSA 151:2. For the purposes of RSA 151:21, RSA 151:25, and RSA 151:26,
19 "facility" shall not include home health care providers, or private homes where home care services
20 are provided. **For the purposes of RSA 151:21, "facility" shall not include direct payment and**
21 **membership-based facilities.**

22 3 Patients' Bill of Rights; Definitions; Direct Payment and Membership-Based Facilities.
23 Amend RSA 151:19, VI to read as follows:

24 VI. "Patients' rights" or "rights" means those rights established under RSA 151:21 [øø] RSA
25 151:21-b, **or RSA 151:21-c**, as applicable.

26 4 Residential Care and Health Facility Licensing; Policies Required. Amend RSA 151:2-f to read
27 as follows:

28 151:2-f Policies Required for Health Facilities and Special Health Care Service Licenses.

29 **I.** Every facility licensed under RSA 151:2, I(a) or (d) and every person holding a special
30 health care service license under RSA 151:2-e shall:

~~[I.]~~(a) Adopt and enforce a written policy to assure that the facility provides its services to all persons who require the services the facility provides regardless of the source of payment for the services provided to any person;

~~[II.]~~(b) Adopt, publicize, and apply an assistance plan for persons who are uninsured or who do not have the financial resources to pay for the facility's services due to financial hardship;

~~[III.]~~(c) Provide data to the commissioner of the department of health and human services regarding the volume, cost and outcomes of services provided in the facility; and

~~[IV.]~~(d) Pay fees under RSA 151:2-e, III to the commissioner of the department to cover the costs of administering the licensing of special health care services, the administration of the quality and patient safety requirements of this section, and the collection and analysis of the data collected under this section.

II. Subparagraph I(a) shall not apply to intermediate care facilities or rehabilitation facilities, including rehabilitation hospitals and facilities offering comprehensive rehabilitation services facilities, that operate on a membership-based business model or exclusively provide services to persons who make direct payment for services. For the purposes of this paragraph, a direct payment is one that is paid directly by the patient and is not reimbursed or otherwise paid by a third party.

5 New Section; Residential Care and Health Facility Licensing; Patients' Bill of Rights for Direct Payment and Membership-Based Facilities. Amend RSA 151 by inserting after section 21-b the following new section:

151:21-c Patients' Bill of Rights for Direct Payment and Membership-Based Facilities. The policy describing the rights and responsibilities of each patient admitted to a facility that operates on a membership-based business model or exclusively provides services to persons who make direct payment for services as defined in RSA 151:2-f, II, 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 shall be provided orally and in writing before or at admission, except for emergency admissions. Receipt of the information shall be acknowledged by the patient in writing. When a patient lacks the capacity to make informed judgments the signing shall 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

1 facility's basic per diem rate and of those services included and not included in the basic per diem
2 rate.

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

14 V. The patient shall be transferred or discharged after appropriate discharge planning only
15 for medical reasons, for the patient's welfare or that of other patients, if the facility ceases to
16 operate, or for nonpayment for the patient's stay.

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

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

25 VIII. The patient shall be free from emotional, psychological, sexual and physical abuse and
26 from exploitation, neglect, corporal punishment and involuntary seclusion.

27 IX. The patient shall be free from chemical and physical restraints except when they are
28 authorized in writing by a physician for a specific and limited time necessary to protect the patient
29 or others from injury. In an emergency, restraints may be authorized by the designated professional
30 staff member in order to protect the patient or others from injury. The staff member shall promptly
31 report such action to the physician and document same in the medical records.

32 X. The patient shall be ensured confidential treatment of all information contained in the
33 patient's personal and clinical record, including that stored in an automatic data bank, and the
34 patient's written consent shall be required for the release of information to anyone not otherwise
35 authorized by law to receive it. Medical information contained in the medical records at any facility
36 licensed under this chapter shall be deemed to be the property of the patient. The patient shall be
37 entitled to a copy of such records upon request. The charge for the copying of a patient's medical

1 records shall not exceed \$15 for the first 30 pages or \$.50 per page, whichever is greater; provided,
2 that copies of filmed records such as radiograms, x-rays, and sonograms shall be copied at a
3 reasonable cost.

4 XI. The patient shall not be required to perform services for the facility. Where appropriate
5 for therapeutic or diversional purposes and agreed to by the patient, such services may be included
6 in a plan of care and treatment.

7 XII. The patient shall be free to communicate with, associate with, and meet privately with
8 anyone, including family and resident groups, unless to do so would infringe upon the rights of other
9 patients. The patient may send and receive unopened personal mail. The patient has the right to
10 have regular access to the unmonitored use of a telephone.

11 XIII. The patient shall be free to participate in activities of any social, religious, and
12 community groups, unless to do so would infringe upon the rights of other patients.

13 XIV. The patient shall be free to retain and use personal clothing and possessions as space
14 permits, provided it does not infringe on the rights of other patients.

15 XV. The patient shall be entitled to privacy for visits and, if married, to share a room with
16 his or her spouse if both are patients in the same facility and where both patients consent, unless it
17 is medically contraindicated and so documented by a physician. The patient has the right to reside
18 and receive services in the facility with reasonable accommodation of individual needs and
19 preferences, including choice of room and roommate, except when the health and safety of the
20 individual or other patients would be endangered.

21 XVI. The patient shall not be denied appropriate care on the basis of age, sex, gender
22 identity, sexual orientation, race, color, marital status, familial status, disability, religion, national
23 origin, source of income, or profession.

24 XVII. The patient shall be entitled to be treated by the patient's physician of choice, subject
25 to reasonable rules and regulations of the facility regarding the facility's credentialing process.

26 XVIII. The patient shall be entitled to have the patient's parents, if a minor, or spouse, or
27 next of kin, unmarried partner, or a personal representative chosen by the patient, if an adult, visit
28 the facility, without restriction, if the patient is considered terminally ill by the physician
29 responsible for the patient's care.

30 XIX. The patient shall be entitled to receive representatives of approved organizations as
31 provided in RSA 151:28.

32 6 Department of Health and Human Services; Legislative Reporting Requirement. The
33 commissioner of the department of health and human services shall conduct a study to examine the
34 impact of direct pay models on the health care system of New Hampshire, with special attention
35 given to the impact of implementation of the direct primary care law, RSA 329:1-e and 2019, 330
36 (HB 508). The department shall provide the results of the study to the speaker of the house of

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1 representatives, the senate president, the house clerk, and the senate clerk, on or before June 30,
2 2026.

3 7 Effective Date. This act shall take effect 60 days after its passage.

**HB 548-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to licensing requirements for health care facilities that operate on a membership-based business model.

FISCAL IMPACT: This bill does not provide funding, nor does it authorize new positions.

Estimated State Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
Revenue	\$0	Indeterminable	Indeterminable	Indeterminable
<i>Revenue Fund(s)</i>	Licensing Fee Revenue			
Expenditures*	\$0	Indeterminable	Indeterminable	Indeterminable
<i>Funding Source(s)</i>	General Fund, Licensing Fee Revenue			
Appropriations*	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	None			

***Expenditure = Cost of bill**

***Appropriation = Authorized funding to cover cost of bill**

METHODOLOGY:

This bill provides that the moratorium on licenses issued to certain new health care facilities under RSA 151:2, VI shall not apply to any facility that operates on a membership-based business model or exclusively provides services to clients who make direct payments. Such facilities would be licensed by the Department of Health and Human Services, and would pay licensing fees in accordance with RSA 151:2-f, I(d). Per RSA 151:2-e, III, such fees shall "fully offset the cost to the department" to process the application and any ongoing expenses. The bill will therefore have an indeterminable impact on both state revenues and state expenditures.

In addition, the bill directs the Department to conduct a study to examine the impact of direct pay models on the state's health care system. The Department states that it is unknown how many additional resources will be needed to complete the study, and so the fiscal impact is indeterminable at this time. It is assumed for the purposes of this fiscal note that any such cost will be incurred in FY26 only, and will be paid for with state general funds.

AGENCIES CONTACTED:

Department of Health and Human Services