SB 613 - AS AMENDED BY THE SENATE

03/26/2026 1177s

2026 SESSION

26-2215
09/06

SENATE BILL ***613***

AN ACT relative to licensing requirements for health care facilities established within a 15 mile radius of a critical access hospital and relative to transfers from freestanding hospital emergency facilities.

SPONSORS: Sen. Prentiss, Dist 5; Sen. Gannon, Dist 23; Sen. Rosenwald, Dist 13; Sen. Fenton, Dist 10; Sen. Perkins Kwoka, Dist 21; Sen. Watters, Dist 4; Sen. Long, Dist 20; Sen. Altschiller, Dist 24; Sen. Reardon, Dist 15

COMMITTEE: Health and Human Services

AMENDED ANALYSIS

This bill:

I. Requires a health care facility to provide certified, written notice to a critical access hospital if the facility will be located within a 15 mile radius of the critical access hospital.

II. Establishes standards governing the transfer of patients from freestanding hospital emergency facilities to acute care hospitals to ensure that such transfers are based primarily on clinical appropriateness, patient safety, continuity of care, and patient choice.

III. Bans coercive or exclusive transfer practices, reinforces EMTALA requirements, and gives the state authority to enforce violations.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to licensing requirements for health care facilities established within a 15 mile radius of a critical access hospital and relative to transfers from freestanding hospital emergency facilities.

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

1 Title. Sections 1 and 2 of this act shall be known as the "Rural Health Care System Stabilization Act".

2 Residential Care and Health Facility Licensing; License or Registration Required. RSA 151:4-a, II(a) is repealed and reenacted to read as follows:

II.(a) Any person or entity proposing to establish an ambulatory surgical center, emergency medical care center, hospital, birthing center, drop-in or walk-in care center, dialysis center, or special health care service within a radius of 15 miles of the primary physical location of a New Hampshire hospital certified as a critical access hospital pursuant to 42 C.F.R 485.610(b) and (c), shall give written notice of the intent to establish the health care facility within a 15 mile radius of the critical access hospital. The notice shall include a description of the facility and any health care services to be established and shall be sent by certified mail to the chief executive of the critical access hospital.

3 Purpose. The purpose of section 4 of this act is to protect patient safety and continuity of care by ensuring that transfers from freestanding hospital emergency facilities are based on clinical appropriateness, patient needs, and regional access to hospital services. Section 4 of this act further seeks to prevent practices that may undermine community hospitals through coercive or exclusive transfer arrangements that are not clinically justified.

4 New Subdivision; Transfers from Freestanding Hospital Emergency Facilities. Amend RSA 151 by inserting after section 53 the following new subdivision:

Transfers from Freestanding Hospital Emergency Facilities

151:54 Definitions. In this subdivision:

I. “Freestanding hospital emergency facility” or “FHEF” means a facility licensed under this chapter that is geographically separate from an acute care hospital and provides emergency medical services on behalf of, or in affiliation with, a parent hospital.

II. “Parent hospital” means an acute care hospital that owns, controls, or operates a freestanding hospital emergency facility, directly or indirectly.

III. “Clinically appropriate” means consistent with the judgment of the treating physician, the patient’s medical condition, and applicable regional emergency medical services protocols.

IV. "Transfer" means the movement of a patient from a freestanding hospital emergency facility to another licensed hospital or health care facility for the purpose of providing continued medical care, and shall not include discharge to home or referral for non-emergent outpatient services.

V. "Medically necessary" means determined by the treating physician or qualified practitioner to be required to prevent or address a material deterioration of the patient's medical condition, consistent with applicable standards of care.

151:55 Transfer Standards.

I. When a transfer from a freestanding hospital emergency facility to an acute care hospital is medically necessary, the facility shall ensure that transfer decisions are based primarily on clinical appropriateness, patient safety, continuity of care, and patient choice.

II. A patient, or the patient's legal representative when applicable, shall be informed of available receiving hospitals that are clinically appropriate and reasonably available, provided that such discussion does not delay screening, stabilization, or transfer required under federal law.

III. No freestanding hospital emergency facility shall require or condition treatment, stabilization, or transfer upon selection of a receiving hospital based primarily on ownership or affiliation.

IV. If a patient is unable to participate in the selection of a receiving hospital, the facility shall arrange transfer to an appropriate hospital consistent with:

(a) RSA 153-A:1 and RSA 151:19, VII;

(b) State-designated trauma, stroke, or specialty care systems;

(c) Federal and state law governing emergency medical treatment and transfer; and

(d) The patient's medical condition and safety.

151:56 Prohibited Practices.

I. No freestanding hospital emergency facility, nor any entity owning or operating such facility, shall:

(a) Engage in materially misleading communication or coercive conduct for the primary purpose of directing patient transfers to an affiliated or parent hospital when another clinically appropriate hospital is reasonably available.

(b) Condition transfer decisions on insurance status or payer considerations.

(c) Enter into exclusive transfer arrangements with emergency medical services providers that require patient transfers to an affiliated hospital without regard to clinical appropriateness, patient needs, patient choice, or regional emergency medical services protocols.

II. Nothing in this section shall prohibit non-exclusive coordination agreements with emergency medical services providers for quality assurance, response efficiency, or specialty care, provided such agreements do not require exclusive routing based on ownership affiliation.

151:57 Federal Law EMTALA. Nothing in this subdivision shall be construed to alter, expand, or restrict obligations under the federal Emergency Medical Treatment and Labor Act (EMTALA), 42 U.S.C. section 1395dd. Compliance with EMTALA shall be deemed compliance with this subdivision. In the event of a conflict, federal law shall control.

151:58 Enforcement; Rulemaking.

I. The attorney general may adopt rules under RSA 541-A to define and implement enforcement standards under this subdivision, including but not limited to defining what constitutes a pattern of violations, coercive conduct, or materially misleading communication.

II. Upon a finding of a pattern of violations as defined by rule, the attorney general may pursue enforcement under RSA 358-A.

III. Prior to referral for enforcement, the department of health and human services shall provide notice of alleged violations and a reasonable opportunity to cure.

151:59 Scope. This subdivision applies only to transfers occurring prior to inpatient admission at the receiving hospital and shall not regulate post-admission referral, discharge planning, or elective admission decisions.

5 Effective Date. This act shall take effect upon its passage.

LBA
26-2215
05/06/2026

SB 613- FISCAL NOTE

AS AMENDED BY THE SENATE (AMENDMENT #2026-1177s)

AN ACT relative to licensing requirements for health care facilities established within a 15 mile radius of a critical access hospital and relative to transfers from freestanding hospital emergency facilities.

FISCAL IMPACT:

The Legislative Budget Assistant has determined that this legislation has a total fiscal impact of less than $10,000 in each of the fiscal years 2026 through 2029.

AGENCIES CONTACTED:

None