



## HOUSE JUDICIARY COMMITTEE

January 24, 2019

HB 552

### Relative to Transparency and Standards for Acquisition Transactions in Health Care

#### Testimony

Good afternoon, Madam Chair and members of the committee. My name is Steve Ahnen, President of the New Hampshire Hospital Association (NHHA), representing all 26 of the state's community hospitals as well as all of our specialty hospitals.

HB 552 seeks to add additional criteria to the statute governing acquisition transactions involving health care charitable trusts. The national health care landscape is changing more rapidly and more profoundly than ever before. Change is coming to every hospital in the nation and is now a normal part of health care so the question isn't if, but when and how that change will occur. Examples abound across the country and we have certainly seen an increase in activity here in New Hampshire.

To thrive in the changing healthcare environment, hospitals and health systems are implementing a range of strategies, from population health management and retail clinics to partnerships and alliances with other hospitals and health systems, insurers and physicians.

The goal of these new relationships is to make the health care system more efficient and effective, as well as to ensure access to important health care services and providers is maintained and strengthened. By building integrated systems of care, we are closer to the goal of providing the right care, at the right place, at the right time, every time.

Hospitals support the work that the Charitable Trusts Unit of the NH Attorney General's Office does in reviewing the transactions that come before it. We have worked closely with Director Donovan and his staff over the years on a number of important initiatives to improve transparency, clarity of reporting and ensuring New Hampshire's not-for-profit hospitals are fulfilling their missions of caring for the patients and communities who depend on them.

HB 552 would add additional criteria to the standards of review that the Director of Charitable Trusts would use to evaluate transactions involving health care charitable trusts, specifically focused on whether the transaction is in the best interests of the health care charitable trust and the community it serves, including the access to quality and affordable physical and mental health care services in both the community served by these charitable trusts as well as the entire State of New Hampshire. While we certainly are not opposed to transparency requirements, the Charitable Trusts Unit already possesses the ability to review an acquisition

involving health care charitable trusts with respect to its impact on the availability of health care services, including behavioral health care services.

We are troubled by the requirement that the Charitable Trusts Unit determine the availability of health care services across the entire State of New Hampshire when reviewing a transaction in one region of the State. If a shortage of services are identified statewide, how is the transaction before them to resolve that issue? Under current law, charitable assets must remain in the community and this would seem to suggest that those resources could be directed outside of the community for which the charitable trusts seeking the transaction serve.

It would seem that the legislation is seeking to create a health planning function within the Department of Justice. If health planning is what the sponsor is seeking, we would be happy to discuss that with him and others to evaluate whether that function should be reestablished within the Department of Health and Human Services, where it existed for many years.

We are also very concerned about the requirements that highly confidential, proprietary information provided by the charitable trusts involved in a review can be shared across state agencies. The Charitable Trusts Unit has broad authority to request information and charitable trusts comply with those requests.

We are also very concerned that the date of implementation in the legislation could require any charitable trusts who have a transaction before the Charitable Trusts Unit already to comply with these new requirements. Should the Legislature choose to move forward with this legislation, any new requirements should apply to future transactions. Doing otherwise would be unfair to those who are involved in that due diligence process and amount to changing the rules in the middle of the game.

And it would seem that this could have the effect of increasing the cost of these transactions should additional outside expertise be sought. It would also seem to lengthen the timeline of these reviews.

Again, Madam Chair, we appreciate the thoughtfulness of the sponsor and the work of the Director of Charitable Trusts and his staff, but at this time we cannot support HB 552 and believe that further dialogue with stakeholders occur around these important issues.

Thank you for the opportunity to provide our comments. I'd be happy to answer any questions.