



SENATE JUDICIARY COMMITTEE

May 21, 2019

HB 552

Relative to Transparency and Standards for Acquisition Transactions in Health Care

Testimony

Good morning, 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.

The NHHA opposed the bill as it came out of the House Judiciary Committee and continues to be opposed to the bill that passed the House as it creates conflicts for not only boards of trustees, but the Charitable Trusts Unit as well, sets up potential overlap with federal antitrust reviews, and could prevent some transactions from moving forward. But hospitals did come together through the Association to review the bill to see if there were modifications that we could agree upon to move this bill forward. I have attached to my testimony a series of

changes that we would propose to HB 552 that we could support, and I'd like to spend a few minutes reviewing them.

The first set of changes we are proposing in the first and second instance involve the use of the requirement that the Director of Charitable Trusts consider the impact that the proposed transaction would have on access to quality and affordable physical and mental health care services in the community and the state of New Hampshire. Inclusion of a review of the impact that a particular transaction will have on the entire state of New Hampshire is simply beyond the scope of the review of the transaction and further sets up a conflict for not only the boards of trustees of the charitable trusts, but for the Director of Charitable Trusts when looking at the proceeds of a transaction beyond the service area of the charitable trusts involved. Charitable assets or proceeds cannot be expended beyond the needs of the community served. What we have suggested be inserted in place of the "state of New Hampshire" language is to refer to the community or communities served by the charitable trusts that are being reviewed and that the proposed transaction is being done "consistent with the mission of the charitable trust."

The next change we are seeking would speak to the information provided by the charitable trust to and how they seek information from the community. Community input is a vital part of the process when charitable trusts seek to come together in a new form, but the language in the House bill would require that the charitable trusts provide transaction documents to the community before they've had the opportunity to get input from the community. We suggest providing information to the community, including a description of how the transaction will meet the community's need for health care services, as well as affordable physical and mental health care services, without prejudicing the input from the community before it has the opportunity to provide it.

HB 552 seeks data and analysis from the charitable trust on how the transaction will meet the community's and state's need for quality and affordable physical and mental health care services, but does not clearly define what data and analysis that they are seeking. As we testified in the House, this seems like an important health planning function that could be conducted by DHHS that spans the review of any individual transaction. Furthermore, there are concerns with respect to data and information that can be shared by for profit corporations that may simply not be consistent with these requirements.

And, lastly, we are seeking to modify the timeline of the review back to existing law which provides for a timely review of these transactions, as well as the effective date of these new requirements to January 1, 2020. For transactions which have already been announced, the provisions in HB 552 would essentially add a new set of requirements that were not in effect when they began the process of submitting a notice to the Division of Charitable Trusts and would be unduly burdensome, and in some cases could prevent the closure of one or more transactions.

Again, Madam Chair, we appreciate the thoughtfulness of those bringing forward this legislation and hope that there is still time to create a solution that all stakeholders can support. I am hopeful that the changes we have proposed can provide that opportunity to do just that.

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