



SENATE HEALTH AND HUMAN SERVICES COMMITTEE

January 22, 2019

SB 11-FN-A – Relative to Mental Health Services and Making Appropriations Therefor Testimony

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

Mr. Chairman, I am pleased to be here today in support of SB 11 to make immediate investments in our state's mental health care system. Last Friday there were 25 adults and 4 children in an acute psychiatric crisis waiting in hospital emergency rooms to be transferred to the appropriate setting for the care they so desperately need and deserve.

The Emergency Department (ED) waitlist is a symptom of a much broader, systemic problem—that we simply do not have adequate resources across the entire system to care for those with a mental health issue, from outpatient services to acute inpatient services, housing, crisis services and more. While we must address the challenges across the entire mental health system, we absolutely must solve the crisis for those in an acute psychiatric crisis who are forced to wait days, sometimes weeks, to be transferred to the appropriate setting for their care. This boarding crisis has gone on for far too long, and on behalf of these patients and their families, we must do all we can to ensure it does not continue.

SB 11 takes an important step in that direction.

SB 11 would:

- make available capital funds to support hospitals or other health care organizations to make the necessary renovations to create designated receiving facility (DRF) units that can accept and serve patients in an acute psychiatric crisis;
- increase the rates paid for services provided in new and existing DRF units that are adequate and allow those organizations to sustain those services over time;
- allow for an increase in rates for voluntary inpatient psychiatric services;

- increase the number of transitional housing beds in the State to support those patients as they recover and move back into the community following an inpatient admission or mental health crisis;
- require payments from insurance carriers for their members in an acute psychiatric crisis who are waiting in hospital EDs to be transferred to the appropriate setting for their care; and
- would require the DHHS Commissioner to enter into rulemaking regarding the hearings for those involuntarily committed to the State mental health system.

Mr. Chairman, these are all very important provisions that will begin to move us in the direction of addressing the mental health crisis facing our State and those suffering from a mental illness.

There has been a lot of work over the past several years to make meaningful progress on this issue. One of those efforts was HB 400, which was passed in 2017, which has led to the development of the next 10-year mental health plan that will help to chart a course for making significant improvements to NH's mental health system.

HB 400 also attempted to increase the number of DRF beds in New Hampshire hospitals, but unfortunately, the extremely low reimbursement rates offered for DRF services were simply inadequate, and those funds were redirected towards other important areas of need, in particular, transitional housing. We believe the significant rate increase in SB 11 is sufficient to attract additional DRF beds, but it must be sustainable over the long term to ensure providers have the ability to attract and retain the workforce that will be necessary to serve these patients. One of the central conclusions of the 10-year mental health plan that was distributed in draft form last month was the dramatic underfunding of New Hampshire's mental health system, and we must make the appropriate investments to ensure that does not continue going forward.

HB 400 also sought to address the issue of timely access to probable cause hearings for those patients in an acute psychiatric crisis awaiting transfer to the appropriate setting. Despite this responsibility belonging exclusively to the State, several hospitals worked with DHHS, the court system and other stakeholders to attempt to design a pilot project for providing probable cause hearings in their emergency departments for patients subject to an Involuntary Emergency Admission (IEA) petition. Contrary to claims that have been asserted by some stakeholders, including the ACLU-NH in a lawsuit they filed last November against the State for failure to provide timely probable cause hearings for these patients in accordance with State law, all stakeholders involved, including State officials, ultimately concluded that safety and security concerns for patients, family members, other patients, as well as hospital and court staff, presented insurmountable barriers to successfully and safely launch the pilot project.

Because the ACLU-NH lawsuit is focused only on the narrow issue of timely access to probable cause hearings, the NHHA and 22 of our member hospitals recently sought to intervene in that federal lawsuit to ensure that the broader issue of immediate access to specialized care is addressed.

State law is very clear. When a patient is deemed a danger to himself, herself or others and an IEA petition is completed, the patient is committed to the State mental health system. The patient is to be transferred immediately to an appropriate and specialized site of care in the

State mental health system—a designated receiving facility (DRF). But the State is not, and has not been for years, in compliance with this requirement, and instead has been relying on hospitals to hold these patients in their EDs until a bed becomes available at a DRF. Hospital EDs are not designed or equipped to meet the specialized needs of these patients in crisis.

The timely provision of probable cause hearings is only one issue, and the solution to this issue is not to build courtrooms in hospital EDs. The solution is to immediately move these patients to appropriate DRFs as required by statute. This solution provides patients both with the necessary care and the due process to which they are entitled. The solution will require investments in many areas all along the continuum of care so that these patients are able to get the ongoing care they need to manage their illness and live happy, productive lives. The coming 10-year mental health plan will lay out a roadmap for many of these future investments and we are encouraged by the attention this issue continues to receive.

Mr. Chairman, SB 11 is a positive step in the right direction and we urge its passage.

Thank you for the opportunity to provide our comments. I am happy to answer any questions you or the members of the Committee might have.