DHA
Delaware Healthcare Association

May 7, 2024

The Honorable David P. Sokola
President Pro Tempore
Delaware General Assembly
411 Legislative Ave.
Dover, DE 19904

The Honorable Bryan Townsend
Senate Majority Leader
Delaware General Assembly
411 Legislative Ave.
Dover, DE 19904

Dear President Pro Tempore Sokola, Majority Leader Townsend and Members of the Senate Executive Committee,

The Delaware Healthcare Association, representing Delaware's hospitals, health systems, and related healthcare organizations, opposes House Substitute 2 for House Bill 350 in its current form and urges a collaborative effort to address healthcare costs without harming Delaware's healthcare system.

We continue to believe that the best way to contain healthcare costs requires insurers, government, practitioners, labor, medical device, and pharmaceutical companies to work together. This is critical as the latest healthcare spending benchmark report shows that hospital expenditures increased the least from 2021 to 2022 compared to other healthcare services, whereas pharmaceutical expenditures jumped 12.4%. To single out only the frontline institutions delivering high-quality health care every day will deteriorate the quality of care and access to care in our state.

While we oppose HS 2 for HB 350 in its current form, we support reducing healthcare costs, enhancing transparency, and holding hospitals accountable to Delaware's healthcare benchmark. We have proposed four overarching amendments to the sponsors for their consideration and have attached language for reference.

1) Reference-based Pricing: As currently written, the 250% of Medicare cap would immediately cut $360 million from Delaware hospitals, which would slash hospital resources, services, up to 4,000 jobs and investments in community programs. DHA proposes an amendment to replace the 250% of Medicare cap on commercial reimbursement with a requirement for hospitals to limit annual increases in rates to any public or private payor below Core CPI plus 1%. This is consistent with the standard that the State has adopted in other recent hospital cost containment statutes and regulations. We are proposing to maintain the exemption from this provision for Nemours Children's Hospital.

2) Enforcement of Healthcare Benchmark: DHA recommends removing the Board's authority to modify or approve a hospital's budget or to seize excess assets that would be paid into a Community Health Improvement Fund. Our proposed

amendment would instead provide the Board with authority to require a hospital to enter into a Performance Improvement Plan as an interim step prior to imposing a significant financial penalty for failure to meet the healthcare spending benchmark for the applicable reporting year. Any financial penalties would be deposited into the Other Post-Employment Benefits Fund, which is the existing fund established for State retiree health benefits.

3) Hospital Budget Submissions: Our proposed amendment would require hospitals to submit a detailed Annual Financial Report to the Board that includes whether the hospital's net actual annual spend growth has met or exceeded the healthcare spending benchmark for the reporting year. Our proposed amendment also establishes a more specific annual Board review and oversight process that includes public hearings and the ability for the Board to issue written determinations about whether a hospital has satisfied requirements of the healthcare spending benchmark.

4) Healthcare Spending Benchmark: Under this legislation, hospitals will be held accountable to the healthcare spending benchmark, which is inclusive of all of Delaware's healthcare spending (not just what is within hospitals' control). DHA's proposed amendment defines the spending benchmark as the greater of the Core CPI + 1% or the existing statute to provide the Delaware Economic & Financial Advisory Council (DEFAC) with more flexibility in their methodology when setting the annual benchmarks.

Thank you for the opportunity to share DHA's concerns with HS 2 for HB 350 and our recommendations for revisions that we believe strengthen the intent without harming quality or access to care. We appreciate the conversations to date with the sponsors and look forward to continuing working with them on this important issue.

Sincerely,

Brian Frazee

Brian Frazee
President & CEO
Delaware Healthcare Association

CC: Members of the Senate Executive Committee

SPONSORS: ______________________

DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE AMENDMENT NO.1
TO
HOUSE SUBSTITUTE NO. 2
FOR
HOUSE BILL NO. 350

AMEND House Substitute No. 2 to House Bill No. 350 by striking lines 10-20 in their entirety and making insertions as shown in underline as follows:

§ 9951. Definitions

(1) "Annual Financial Report" means the following documents for each Reporting Hospital:

a. Summarized profit & loss (P&L) statement and balance sheet information for applicable Reporting Hospital service lines.

b. Annual Audited Financial Statements for the applicable Reporting Year.

c. Copies of the Internal Revenue Code Section 990 filing for the applicable Reporting Year or the most recent tax filing year on record, if the Reporting Hospital has not yet filed the Form 990 for the applicable Reporting Year.

d. High level summary of a Reporting Hospital's service utilization and cost data relating to particular services or service lines.

(2) "Board" means the Diamond State Hospital Cost Review Board established by § 9952 of this title.

(3) "Insurer" means as defined in § 9903 of this title.

(4) "Net Actual Annual Spend Growth" means the increase (on a percentage basis) in a Reporting Hospital's net patient revenues received for inpatient, outpatient, and ancillary services in its fiscal year above that of the prior fiscal year, minus the percentage growth in the population of such Reporting Hospital's Service Area during such fiscal year.

Net annual growth shall be adjusted to include, but shall not be limited to, age and other health status adjusted factors and other cost inputs such as pharmaceutical expenses and medical device expenses.

(5) "Payer" means as defined in § 9903 of this title.

(6) "Public program" means as defined in § 9903 of this title.

(7) "Purchaser" means any governmental entity or unit, which offers coverage on a self-insured basis, or any employer that is self-insured within the definitions of the Employee Retirement Income Security Act (ERISA).

(8) "Reporting Hospital" means as defined in § 1001 of this title and licensed under § 1003 of this Title, except, except that hospitals that exclusively provide psychiatric services or rehabilitative services are excluded from the application of this subchapter. means the Diamond State Hospital Cost Review Board established by § 9952 of this title.

(9) "Reporting Hospital's Service Area" means those contiguous Delaware zip codes in which individuals comprising eighty percent (80%) or more of such Reporting Hospital's inpatient discharges in such fiscal year reside.

(10) "Reporting Year" means the applicable year for which the Board will review and assess a Reporting Hospital's Annual Financial Report as set forth in in § 9953 of this title.

(11) "Spending Benchmark" means the greater of the Core CPI plus 1% or "spending benchmark" as that term is defined in § 9903 of this title.

FURTHER AMEND House Substitute No. 2 to House Bill No. 350 by inserting the following and renumbering the subsequent lines accordingly.

§9952 Diamond State Hospital Cost Review Board

(3) Four of the members appointed by the Governor shall represent each county and the City of Wilmington.

FURTHER AMEND House Substitute No. 2 to House Bill No. 350 by striking lines 46 through 47 in their entirety and renumbering the subsequent lines accordingly.

FURTHER AMEND House Substitute 2 to House Bill No. 350 by striking line 49 in its entirety and making the insertions shown in underline in lieu thereof as follows:

d. Approval of a performance improvement plan under § 9957 of this title

FURTHER AMEND House Substitute No. 2 to House Bill No. 350 by deleting lines 50 and 51 and inserting in lieu thereof the following:

(g) The Board shall promulgate rules and regulations necessary for the implementation of this subchapter. Such rules, regulations and written guidance shall be promulgated in accordance with the requirements of the Administrative Procedures Act, Del. Code Ann. tit. 29, § 10141(a), and Del. Code Ann. tit. 1, § 302(15).

FURTHER AMEND House Substitute No. 2 to House Bill No. 350 by striking lines 52 through 82 in their entirety and inserting in lieu thereof the following:

§ 9953. Submission of Annual Financial Report to the Board.

(a) A Reporting Hospital shall submit an Annual Financial Report to the Board as defined in this Subchapter and in accordance with the timeline as set forth in the rules, regulations, and guidance promulgated under this subchapter. Such rules, regulations and written guidance shall be promulgated in accordance with the requirements of the Administrative Procedures Act, Del. Code Ann. tit. 29, § 10141(a), and Del. Code Ann. tit. 1, § 302(15)..

(b) A Reporting Hospital's Annual Financial Report shall include an analysis of whether the Reporting Hospital's Net Actual Annual Spend Growth has met or exceeded the Spending Benchmark for the Reporting Hospital's Service Area for the applicable Reporting Year.

(c) A Reporting Hospital's violation of the Board's standards and procedures is subject to enforcement under § 9957 of this title.

FURTHER AMEND House Substitute No. 2 to House Bill No. 350 by deleting lines 83 through 108 in their entirety and making the insertions as shown in underline in lieu thereof as follows:

§ 9954. Performance improvement plans.

(a) Beginning in 2027, if the Board determines that a Reporting Hospital's Net Actual Annual Spend Growth for the Reporting Hospital's Service Area has exceeded the Spending Benchmark for the applicable Reporting Year, the Board shall send the Reporting Hospital notice of that finding and may require the Reporting Hospital to submit a Performance Improvement Plan for the Board's consideration and approval before imposing additional fines or enforcement penalties under § 9957 of this Title.

(b) The Board may promulgate additional regulations and written guidance about the performance improvement plan process, including discretionary factors that the Board may consider in deciding whether or not a Performance Improvement Plan is required, taking into account the Reporting Hospital's financial condition, any ongoing strategies or investments that the healthcare entity is implementing to improve patient access and quality, future long-term efficiency, and reduce cost growth, and such other factors as the Board may determine to be relevant, in accordance with the requirements of the Administrative Procedures Act, Del. Code Ann. tit. 29, § 10141(a), and Del. Code Ann. tit. 1, § 302(15).".

FURTHER AMEND House Substitute No. 2 by deleting lines 109-132 in their entirety and making the insertions as shown in underline in lieu thereof as follows:

§ 9955. Board Review and Public Hearing Process for a Reporting Hospital's Annual Financial Report

The Board shall convene a Public Hearing on an annual basis for each Reporting Hospital to present its Annual Financial Report to the Board and engage in dialogue with the Board regarding questions, concerns or additional information necessary to determine whether a Reporting Hospital's Net Actual Annual Spend Growth has met or exceeded the Spending Benchmark for the applicable Reporting Year, under such additional terms and conditions which the Board may establish by Regulation consistent with this subsection.

FURTHER AMEND House Substitute No. 2 to House Bill No. 350 by striking the word "hospital" where it appears in line 134 and inserting the words "Reporting Hospital" in lieu thereof.

FURTHER AMEND House Substitute No. 2 to House Bill No. 350 by deleting lines 142-160 in their entirety and making insertions as shown in underline in lieu thereof as follows:

§ 9957. Enforcement.

(a) The Board has the authority to do one or more of the following to enforce the provisions of this Subchapter, by issue of a written order after a Reporting Hospital has received notice and an opportunity to be heard:

(1) Assess a civil penalty of up to five hundred thousand dollars ($500,000) if the Board determines that a Reporting Hospital knowingly failed to provide information or adhere to standards, procedures, and deadlines related to the Annual Financial Report submission process as required by this subchapter.

(2) Assess a civil penalty of up to one million dollars ($1,000,000) to a Reporting Hospital if the Board determines that a Reporting Hospital's Net Actual Annual Cost Growth has exceeded the Spending Benchmark for the applicable Reporting Year. The Board may defer assessment of the civil penalty unless and until a Reporting Hospital has failed to comply with the terms and conditions of a Performance Improvement Plan issued in accordance with the requirements of Section 9954 of this Subchapter. The Board shall exercise discretion in determining the amount of a civil penalty, up to the limits established in this subsection, in accordance with the relative size, geographic footprint and financial position of the Reporting Hospital.

(b) <u>Any civil penalty assessed by a Final Order of the Board and paid by a Reporting Hospital pursuant to this Subchapter shall be paid into the Other Post-Employment Benefits Fund to be managed by the Board of Pension Trustees, in accordance with the requirements of Chapter 52B of Title 29.</u>

FURTHER AMEND House Substitute No. 2 to House Bill No. 350 by striking the word "hospitals" where it appears in line 163 and inserting the words "a Reporting Hospital" in lieu thereof.

FURTHER AMEND House Substitute No. 2 to House Bill No. 350 by striking lines 165 through 170 in their entirety.

FURTHER AMEND House Substitute No. 2 to House Bill No. 350 by deleting lines 174 through 176 in their entirety and inserting in lieu thereof the following:

<u>"(a) For calendar years 2025 and 2026 a Reporting Hospital may not charge any payer, purchaser, insurer, or public program an amount that exceeds the greater of 2% or Core CPI plus 1% over rates from the previous year.".</u>

<u>SYNOPSIS</u>

This Amendment makes the following changes to House Substitute No. 2 to HB 350 with HA 1:

- Inserts a definition of a Reporting Hospital for clarity of scope of applicability to Delaware licensed hospitals, and adds additional defined terms to clarify the intent, scope and review process that applies to a Reporting Hospital.
- Adds definitions for clarity and consistency throughout the bill, including Reporting Year, Annual Financial Report, Net Actual Annual Spend Growth, and Reporting Hospital Service Area.
- Clarifies that a Reporting Hospital's annual budget submission will consist of an Annual Financial Report, with that term more clearly defined in the statute, and requires a Reporting Hospital's Annual Financial Report to include an analysis of whether the Reporting Hospital's Net Actual Annual Spend Growth has met or exceeded the health care Spending Benchmark—as defined in this Act-- for the Reporting Hospital's Service Area for the applicable Reporting Year.
- Adds significant clarity and structure to the Board's financial review and oversight process consisting of public hearings and the ability for the Board to issue a written determination about whether a Reporting Hospital has satisfied the requirements of the health care Spending Benchmark for the Reporting Hospital's Service Area for the Applicable Reporting Year.
- Clarifies that the Board's authority to review a Reporting Hospital's Annual Financial Report will <u>not</u> include the ability to modify or approve a Reporting Hospital's Budget or to seize excess assets to be paid into a Community Health Improvement Fund to be managed by the Board (and/or another state entity), but <u>will</u> include the ability to require the Reporting Hospital to enter into a Performance Improvement Plan as an interim step prior to imposing a financial penalty for failure to meet the health care Spending benchmark for the applicable Reporting Year.
- Clarifies the enforcement authority and penalty provisions into one unified section (Section 9957), with penalties collected to be deposited into the existing fund established for State retiree health benefits, the Other Post-Employment Benefits Fund as set forth in Chapter 52B of Title 29, instead of creating a new Community Health Improvement fund as contemplated by the current version of HS2.
- Removes the temporary 250% of Medicare rate ceiling and instead requires Reporting Hospitals to comply with a requirement that annual increases in rates to any public or private payor not exceed Core CPI plus 1%, making it consistent with the standard the State has adopted in other recent hospital cost containment statutes and regulations.

TRINIDAD NAVARRO
COMMISSIONER

STATE OF DELAWARE
DEPARTMENT OF INSURANCE

May 7, 2024

Members of the Senate Executive Committee

RE: HS 2 for HB 350 w/ HA 1

President Pro Tempore Sokola and Members of the Senate Executive Committee,

On behalf of Insurance Commissioner Trinidad Navarro, the Delaware Department of Insurance, the Office of Value-Based Health Care Delivery, nearly 45,000 individual health insurance purchasers, and more than 80,000 other residents and Delaware businesses who purchase and use our state-regulated health insurance plans, I write to offer our **support** for this legislation. These comments also include information shared by members of health systems who are fearful of speaking the truth on hospital activities and offering public support. **While we are but one commentor, we are an expert commentor, and represent more than 115,000 Delaware residents and businesses who will benefit from this legislation and the lower premiums and cost of care that it will bring.**

Many of you have heard me say that the lowest healthcare bill you'll ever pay, is the bill you pay today. Transformative legislation like this can change that, and truly lower resident's future bills. You may have also heard me say that our rising total cost of care has neither one single cause, nor one single cure. But we have to date addressed nearly every symptom – we have heavily regulated health insurers, we have invested in primary care, and we have made strides in addressing pharmaceutical costs as well. Hospitals are the final component we must address to achieve our shared, critical goal of lowering Delaware's health care costs.

This legislation will further efforts to lower total cost of care, which could result in:

- Decreased health insurance premiums across regulated and state-based plans
- Increased insurance enrollment on these more affordable plans
- Reduced expensive emergent visits and chronic conditions through more accessible preventative care
- Enhanced ability for insurers to redirect investment to primary care and support independent providers
- Savings for residents, businesses, and the state

First, let me explain how this bill will lower insurance premiums. Insurers are heavily regulated by DOI and the federal government, including through firm guardrails that require them to pay 80-85% of their premiums toward health care services and claims. If they do not do so, consumers must be refunded. In addition to this required justification of premium, carriers typically spend 13-15% on operating expenses, and we hold profits to 3-5%. We see Delaware carriers operating on 0.5-2% profit in the current insurance environment. Because 80-85% of premium must be tied to medical expenses, when we lower the cost of medical expenses, we lower premiums and save consumers and businesses money. **And we can prove it.** When health system utilization decreased during COVID-19 and was difficult for insurers to estimate, a total of $33.8M in premium rebates were sent to Delaware residents and small businesses over the course of two plan years solely because medical expenses decreased, expenses which largely come from health system care. Many thought that the cost of COVID-19 care would justify higher premiums, but the savings seen by reductions in utilization overall speak to the level at which non-emergent health system costs make up a significant amount of each premium dollar.

This legislation is not the first attempt to regulate Delaware hospitals, but it is the first truly enforceable one. The legislative mandate that first aimed to impose annual consumer price-growth guardrails on hospitals, largely SS 1 for SB 120 (2021) and 2022's SS 1 for SB 222 w/HA 1 (which hospitals fought for to access higher annual increases) aimed to achieve investment in primary care and improvement of care value in a largely cost-neutral way, but the reasonable limits on annual hospital price increases have not been extremely effective, because enforcement is essentially up to insurers. Still – it was only following this legislation that we were able to increase the numbers of carriers on our Health Insurance Marketplace fourfold due to the leverage insurers could finally achieve with these powerful health systems – and enrollment increased 77% since then.

Further, **hospital systems can also afford this legislation**. Data from the National Academy for State Health Policy (NASHP) shows that Delaware hospital systems have substantial reserves totaling more than $5.8B, including multiple multi-billion-dollar health system reserves. These 'nonprofits' retain hundreds of millions of new dollars each year, even after building, buying up independent practices, and making out-of-state acquisitions, as can be seen on their IRS documentation. Distressingly, we have received reports that operating expenses and staffing are being manipulated to create more attractive data in fighting this bill, through means such as ending key professional contracts and instead utilizing expensive travel doctors, even in the case of emergency rooms.

Two major health systems are already subject to global budgeting requirements in Maryland – it did not prevent a Delaware system from purchasing a Maryland hospital, nor prevent a Maryland system from the income necessary to purchase here.

Finally, any attempts by health systems to suggest that a growing senior population is a reason not to enact this bill, are attempts to obscure the fact that Medicare already has a strict fee schedule in place that will be unimpacted by this legislation. A Medicare fee schedule is a list of fees used by Medicare for specific services, supplies, equipment, etc. based on data associated with the cost of that care – hospitals essentially already know the dollars they will receive from the Medicare populations they serve, and it won't decrease because of this bill. On the other hand, 2022 RAND data shows hospitals require Delaware's private insurance plans to pay 224% more than Medicare, giving Delaware hospitals the 3rd highest net income per adjusted discharge and the 12th highest average net profits according to NASHP. Our ACA Marketplace, which would benefit from this legislation, sees the highest rate of enrollment in the 55-64 age group. These often retired, pre-Medicare-eligible residents are often on fixed incomes, and need the lower health care costs this legislation could prompt.

Thank you for your time and consideration of this important legislation relating to health care cost containment. As you can see, it follows a long tradition of efforts to regulate other sides of this equation, from insurers to investment in primary care, to pharmaceuticals and PBMs. When we turn this final stone and bring transparency and accountability to hospital systems, we can lower the total cost of care in Delaware.

Please do not hesitate to reach out to us with any questions.

Sincerely,

Chris Haas
Senior Policy Advisor
Delaware Department of Insurance

Central Delaware Chamber of Commerce

Wednesday, May 8, 2024

Senate Executive Committee
Legislative Hall
Dover, DE 19901

Dear Members of the Executive Committee,

I was present at yesterday's hearing and am thankful to have had my one minute to testify. Of course, in that time, I was not able to express all of our concerns with HB 350, so I am sending this follow up letter. As I mentioned yesterday, I am not only representing the CDCC, but also the Association of Chambers of Commerce of Delaware.

Here are our concerns:

- This bill seems to promote an unnecessary overreach of authority. You should know that the perception is that this legislative body is seeking to operate well outside its lane.
- While the bill seems to focus on budget and hospital costs, we all understand that fiscal control can and often will lead to systematic control.
- There are many big factors that tend to elevate the cost of healthcare – this bill addresses none of those.
- Community hospitals must be able to address the needs of the communities they serve – replacing hospital boards comprised of community members with a committee of political appointees does not promote an open dialogue between the community and its hospital and seems rather counterintuitive.
- Chambers of Commerce are big believers in the idea that we can do far more together than we can on our own. From what we can tell, there has been no collaboration or even conversation between the sponsors of this bill and hospital leaders. If there is a problem with the decisions hospitals are making, wouldn't the first step in solving it be to have a conversation with the people involved. We believe that an effort to work together is much more likely to result in a viable solution than the overreach promoted by this piece of legislation.
- It is unfortunate that a bill of this magnitude that has the potential to change the entire landscape of our current healthcare system was not introduced until two months into this legislative session. This is not the kind of bill that should be pushed through the legislature in a hurry. In fact, this bill really should not move any further until every stakeholder is invited into the conversation. We are concerned that there is not sufficient time for that kind of collaboration to happen – and that is a tragic shame.

On a side note, I find it insulting and simply wrong that when the people come to the "people's house" to speak, they are limited to 60 seconds. That sets up a situation where no one can fully express themselves and no one is really listening. I hope that gets changed in the near future.

All the best –

Dr. Dina Carol Vendetti
President

From: Patricia Sigler <pat.sigler@icloud.com>
Sent: Tuesday, May 7, 2024 6:49 PM
To: McCartan, Valerie (LegHall)
Subject: Comments on HB350

My name is Pat Sigler, a retiree and citizen of Seaford, DE. Since I got cut off with the ridiculous limit of 1 minute, here are my comments in full for the public record.
1. This bill is government overreach that allows the government to steal money from private enterprise to use for their own special projects.
2. This bill penalizes business for doing well and investing that money in new technology, well qualified medical personnel and expansion of services offered and facilities.
3. Sussex County has had the largest growth in the US this past year. Therefore, we need more medical facilities and services. This bill would destroy medical services just like the model Vermont system has done (more than 31 closures).
4. How does the State conclude that they can run private business better than private business when they cannot even meet their own budget and have not for at least the past 5 years.
5. This bill is about stealing money from private business, not improving healthcare. The state had already passed legislation that has increased costs to consumers by diminishing competition.
6. Key to improvement of costs to consumers is collaboration, not pejorative legislation.
7. Do not allow this bill to go forward. It is bad for Delaware citizens.
Thank you,
Pat Sigler
Sent from my iPad

From: Ann Fallon <westy8054@gmail.com>
Sent: Monday, May 6, 2024 7:12 PM
To: McCartan, Valerie (LegHall)
Cc: Ann Fallon
Subject: Written Testimony - Vote NO HB 350

>> Dear Ms. McCartan, please consider this my written testimony with regard to HB 350. I never could have imagined Delaware Democrats taking up such a horrible proposition as HB 350. Please vote no on this bill. It is simply wrong to put political appointees in charge of our nonprofit hospital budgets. Please continue to work with healthcare systems to find better ways to control costs and vote down this bill. I never could have imagined Delaware Democrats passing such a horrible bill. I work for ChristianaCare health system and I am familiar with the rigorous budget approval process that the health system goes through each year, and all of the good that the health system is doing in the community. This will cause harm not only to patients in Delaware, but also to Pennsylvanians that rely on Delaware healthcare services. Delaware Democrats are losing my confidence over this. I hope for the sake of all patients and hospital staff that will be adversely impacted if this bill passes, that you will reconsider and vote NO on this bill.
>> Ann Fallon
>> 400 Foulk Rd, Apt 4C8
>> Wilmington De 19803

From: Christina Crooks Bryan <christina@deha.org>
Sent: Tuesday, May 7, 2024 7:39 AM
To: Christina Crooks Bryan
Cc: Brian Frazee
Subject: Joint Letter Opposing HB 350
Attachments: Joint Organization Letter Opposing HB 350.pdf

Good morning.

Attached and pasted below, please find a joint letter from Delaware organizations and community leaders expressing opposition to HB 350, the hospital cost review board legislation, in its current form and calling for collaboration on this issue.

May 7, 2024

The Honorable John Carney
Governor
Tatnall Building
150 Martin Luther King Blvd South
Dover, DE 19901

Delaware General Assembly
Legislative Hall
411 Legislative Avenue
Dover, DE 19901

Dear Governor Carney and Members of the Delaware General Assembly,

We the undersigned agree that healthcare costs should be addressed in Delaware. Our group is composed of leaders with deep knowledge of healthcare, business and nonprofit work in Delaware and in our region. It is with that expertise and a great passion for our state and the work we do in our communities, that **we write you to say HB 350 in its current form is NOT the way to achieve the goal of reducing healthcare costs**. This bill will have disastrous ramifications on not just the hospital systems but on the business and nonprofit communities. It is our hope that we can bring all parties together inclusive of the business community, nonprofit leaders, healthcare systems, providers, payors, pharmaceutical companies, pharmacy benefit managers, state unions, community advocates and patients to determine a strong path forward for our state. That is the Delaware way.

Sincerely,

Organizations

-
Association of Chambers of Commerce of Delaware
Bayhealth
Beebe Healthcare
Bethany-Fenwick Area Chamber of Commerce
Central Delaware Chamber of Commerce (CDCC)

ChristianaCare
College Ave Student Loans
DANA, the Delaware Alliance for Nonprofit Advancement
Delaware Academy of Medicine/Delaware Public Health Association
Delaware Business Roundtable
Delaware Coalition Against Domestic Violence
Delaware Healthcare Association
Delaware Psychological Association
Delaware State Chamber of Commerce
Kent Sussex Leadership Alliance
Kool Kolored Kid Generation LLC
Latin American Community Center
Lewes Chamber of Commerce
Nemours Children's Health
New Castle County Chamber of Commerce
Rehoboth Beach - Dewey Beach Chamber of Commerce
Saint Francis Hospital
Sarah Nason Construction
Sussex County Health Coalition
The Precisionists, Inc.
TidalHealth Nanticoke
Wohlsen Construction

Community Leaders

Andrew Hartstein
Arthur and Cynthia Pollard
Barry Niziolek
Brian DiSabatino
Catharine N. Lyons
Charlie McDowell
Chip Rossi
Dan Cruce
Darryl Chambers, M.A., Center for Structural Equity
David Stratton
Doneene Damon
Dr. Francisco Padilla
Dr. Richard Simons
Dr. Sandra Palavecino
Ernie B. Lopez
Ernie Dianastasis
Fred Mast
George Foutrakis
Jocelyn Stewart
Joe DePaulo
Kathleen McDonough
Lolita Lopez
Lossie Freeman
Maria Lehman, Board Chair
Marie Holliday, CPA
Michele Procino-Wells
Michelle A. Taylor, Ed.D.
Perry Beberman

Rita M. Landgraf
Robert Asante
Sean Steward
Susan Moore, MD
Terrance Keeling, President and CEO of Central Baptist CDC
Tom Moore
Tom Nason and Julie Topkis Nason
Tracy Neilson
Tynetta T. Brown
Wil Sherk

Please let us know if you have any questions.

Thank you.

Christina Crooks Bryan
Director, Communications & Policy
Delaware Healthcare Association
1280 S. Governors Avenue
Dover, DE 19904
Office: (302) 674-2853
Cell: (302) 245-1638
http://www.deha.org

DHA
Delaware
Healthcare
Association

From: Libby Gregg <libbygregg@outlook.com>
Sent: Tuesday, May 7, 2024 1:21 PM
To: McCartan, Valerie (LegHall)
Subject: Opposition to HS 2 for HB 350 w/ HA 1

I'm writing you at the last minute the Senate Executive Committe to vote no and to abandon this idea of a Healthcare Commission as a way to address rising healthcare costs for the State.

Having a commission made up of paid political appointees supervising and having input into the running of a private business (non-profit or for-profit) doesn't make sense. The costs of the commission members and their benefits I believe increases the state budget by $1,000,000. I don't understand why adding another layer of bureaucracy to state government is any cost savings.

The State of Delaware has no business becoming involved in the budget process of a private business. We are not a communist state and government takeover of the budget process is the beginning. I am appalled that a legislator would even suggest this. And that the Democrats pushed the legislation through.

This commission will only increase costs and will not address the rising cost of healthcare. It could very likely decrease the quality of healthcare in Delaware because no business in their right mind would want to try and operate under this type of "business environment".

Please have your leaders in the Executive Committee vote no.

Libby Gregg
621 Horseshoe Hill Road
Hockessin, DE 19707

From: Starr Lynch <Starr_Lynch@bayhealth.org>
Sent: Tuesday, May 7, 2024 7:26 PM
To: McCartan, Valerie (LegHall)
Cc: Jessica Alvarez
Subject: Opposition to Bill 350

Honorable Members of the Delaware General Assembly,

I am writing to express my strong opposition to House Delaware HB 350. I moved to Delaware after my Labor and Delivery unit and ultimately the entire hospital was closed related poor management by Community Health System in West Grove Pennsylvania.

With a nursing License in Delaware, Pennsylvania and Maryland , I found myself offered positions in all three states. I choose Bayhealth Kent Campus due to their commitment to the community and investment of profits back into the hospital and community. BayHealth has continued to show there giving heart on a regular basis with a few examples being:
-Extending the hours Dover Pharmacy to be open 24/7 when the community pharmacies limited days and hours.
- Boxes of food to patients who needed them and partnered with the food bank to have food delivered to there home,
-Ensuring that patients without transportation had a safe professional ride home.
-Taking the lead for the Delaware Perinatal Quality Collaborative to partner with all Birthing hospitals in Delaware to continue to improve Maternal and newborn safety in the state of Delaware.
-mobile healthcare unit to travel to underserved areas in Kent and Sussex County

The state of Delaware has managed to attract professional healthcare providers by putting the patient first and ensuring the standard for care continues to improve,

It is a short drive to other states please do not pass Bill 350 and start the migration out of the state of our skilled residents.

In Conclusion, I urge you to reconsider the current version of HB 350. As a nurse manager, I am committed to providing excellent care to our community and believe that collaborative efforts will yield better results than rigid regulations and fines.

Thank you for your attention to this matter.

Kathryn **Starr** Lynch BSN RNC-OB
Senior Nurse Manager
Bayhealth Kent Campus
Birth Center and Women and Children's Services
Office Phone 302-744-6580 Ascom 302-744-7470
Mail code 1611 Office 6354/643

starr_lynch@bayhealth.org

From: Robert meade <meade803@gmail.com>
Sent: Wednesday, May 8, 2024 8:57 AM
To: McCartan, Valerie (LegHall)
Subject: House Bill 350

In regards to senate bill 350 I am opposed to the Bill for the following reason:

1. It was mentioned several times yesterday the hospital costs have gone down. Why do we need legislation when cost is trending down?
2. The Benchmarks have so many variables how can the Hospitals hope to meet the bench mark.
3. The hospitals have their own boards that understand their geographical area. The state is forming a committee that has limited knowledge of the 3 counties and dictated their benchmarks.
4. If the hospital comes under the bench marks the saving goes into the general fund which limits the hospital's reinvestments.

Bob Meade

From: Peggy mika <southernmika@hotmail.com>
Sent: Thursday, May 9, 2024 12:34 PM
To: Chadderdon, Jesse (LegHall); McCartan, Valerie (LegHall); Majority Caucus, Senate (MailBox Resources)
Subject: HB 350

I am writing to voice my strong opposition to HB 350. The government has no business trying to manage the budget(s) of any *private* business(s). Period.

In this case, government interference is one reason healthcare costs are out of control. More government is not the solution. And this proposal is simply outrageous.

If there is true concern out the cost of healthcare to Delaware citizens, the more appropriate role for the government would be to bring all of the parties connected to rising costs – health systems, phara, Medicare, Medicaid, etc. – to the table to find root causes and real solutions.

Peggy Mika
Freelance writer/editor
302-234-4678 (h)/850-7481384 (c)

DANA | LEADING THE SECTOR FORWARD
Delaware Alliance for Nonprofit Advancement

100 W. 10th Street
Suite 1012
Wilmington, DE 19801

P 302 777 5500
F 302 777 5386
www.delawarenonprofit.org

To: Members of the Delaware State Senate
From: Sheila Bravo, President and CEO
Date: May 7, 2024
RE: DANA comments regarding HS2 to House Bill 350 w/ HA 1 – Relating to Hospital Costs

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As the Senate considers House Substitute 2 to House Bill 350 w/ HA 1, regarding the establishment of Diamond State Hospital Review Board to review the budgets of hospitals in Delaware, please note the following concerns of the nonprofit community.

Delaware's major hospitals are nonprofit organizations, and the requirement created by HS2 to HB 350 requiring hospitals both nonprofit and private businesses to submit their budget for approval is a concerning overreach of government authority. Businesses and nonprofits operate in a complex economy, and they need to consider many factors, including staff recruitment, retainment and training, real estate expenses, research and innovation investments, and the growing costs of supplies to provide services.

The nonprofit sector has specifically experienced how the State balances its budget by paying below market rate for services to its nonprofit contracted service providers. If the goal of this legislation is to control the cost of healthcare services, then there are concerns that the solution will be to again under budget for those services. The result will be that hospital systems will be unable to stay competitive and pay for equitable access or health care quality for Delaware's growing population.

From a governance perspective, state oversight of a nonprofit is a concerning practice. Usurping the authority of a nonprofit boards comprised of local community leaders with a clear governance process and the legal accountability to steward their charitable assets with political appointees raises concerns related to the hospital board's ability to fulfill their fiduciary responsibilities. Once this practice is in place for the hospital systems, it is likely, this type of oversight could extend to all nonprofits organizations that are in a contractual relationship with the State, dictating how to pay employees in nonprofit organizations. It will become impossible for Boards of Directors of nonprofit organizations to uphold their accountabilities with a government oversight body that can overrule their decisions.

Finally, the major hospital systems in Delaware frequently partner with nonprofit service providers to offer contracted services. The chance that a commission dedicated to reducing costs will eliminate these community-based service partnerships deeming the services seems a high possibility. These relationships are necessary for maintaining a healthy economy but also to get critical services to the populations that need them most. Eliminating this opportunity out of strict desire for cost savings could be a short-sighted result of this initiative.

On behalf of the Delaware nonprofit sector, it is my hope that you will take into consideration these unintended consequences before moving forward with legislation that will have catastrophic results.

From: Connie Merlet <cmerlet1@gmail.com>
Sent: Tuesday, May 7, 2024 6:06 PM
To: Townsend, Bryan (LegHall); Lockman, Elizabeth (LegHall); Pettyjohn, Brian (LegHall); Sokola, David (LegHall); Hocker, Gerald (LegHall); Pinkney, Marie (LegHall); McBride, Sarah (LegHall)
Subject: Send HB 350 to the floor

Dear Executive Committee members,

No matter how many hospital CEOs of hospitals or hospital staffers who have been told their ranks will be reduced appear to speak, they are saying nothing to dampen my support for this bill. They are saying nothing but fear mongering. I know how fearful people are. DHA has sent thousands of letters to residents of this state saying they will lose valuable health supports. They have been frightened by lobbyist untruths.
Please do not allow this barrage of administrators who apparently have all the time in the world to travel to Dover to sway your support for this important legislation.

Thank you,
Connie Merlet
Newark

From: g.feather@comcast.net
Sent: Tuesday, May 7, 2024 4:27 PM
To: Huxtable, Russell (LegHall); Sokola, David (LegHall); Townsend, Bryan (LegHall); Lockman, Elizabeth (LegHall); McBride, Sarah (LegHall); Pinkney, Marie (LegHall); Hocker, Gerald (LegHall); Pettyjohn, Brian (LegHall)
Subject: Please Oppose HB 350 As It Stands

To: Senator Russell Huxtable and Members of the Senate Executive Committee

My name is Gail Feather and I am writing today to express my opposition to House Bill 350 (HB 350) in its current form and ask that you work with hospital leaders to develop a better solution to rising healthcare costs that allows hospitals to retain their local decision-making abilities.

As a healthcare consumer, I understand that rising costs are unsustainable, which is why the Delaware Healthcare Association attempted to work with House leadership to create an amendment to HB 350 that would take steps to reduce costs while retaining local autonomy before it advanced to the Senate. While this attempt was not successful, I know that the Delaware Healthcare Association is still interested in collaborating with Senate leadership to agree on an amendment to the bill that addresses rising costs while allowing hospitals the flexibility to address their community's needs.

I know how important it is to ensure all Delawareans have access to high-quality, affordable healthcare. I also know it's more important than ever to preserve our local decision-making abilities and develop a comprehensive solution to address healthcare costs. For all the reasons I've stated above, I ask that you vote against HB 350 as it currently stands and collaborate with hospital leadership to create an inclusive process and path forward.

Thank you for your consideration,

Gail Feather

From: cas3443 <cas3443@comcast.net>
Sent: Saturday, May 4, 2024 7:25 PM
To: McCartan, Valerie (LegHall)
Subject: Bill 350

I suggest you reach out to Dr. David Tam who is president of Beebe hospital. He has an article in the Cape Gazette that has nothing to do with state government taking over hospitals but rather offers to work with the Delaware House and Senate to come up with a good resolution to the cost problem. I believe President Ronald Reagan was correct when he said when the government knocks on your door and asks can I help you, run in the opposite direction.
If the state getting into health care is anything like Insurance companies making the decisions for how long you can stay in the hospital, this is going to be a disaster on all levels for Delawareans, particularly the older generation whose needs are greater than most. Delaware Democrats do not listen to healthcare professionals or their constituents on any issue. When those Delaware democrats get their medical degree, I will then pay attention to what they have to say about health care. Until that time I can ignore them like they ignore the people they are supposed to represent and work for.
VOTE NO on house bill 350.

Sent from my iPhone

This Is a Critical Moment: Delaware Must Not Go Backward in Health Equity

The proposed Delaware House Bill 350 is well-intended but would have terrible consequences for Delaware's most vulnerable populations. There is a better way.

April 20, 2024

By LeRoi S. Hicks, M.D., MPH, FACP

LeRoi Hicks, M.D., MPH

As a Black physician who has dedicated his 25-year career to understanding and addressing health equity, I am deeply concerned about Delaware's proposed House Bill 350, which aims to address rising health care costs by establishing a body of political appointees that would oversee the budgets of Delaware's nonprofit hospitals.

While the goal of bending the cost curve in health care may be well-intentioned, this bill will have horrific consequences for Delaware's most vulnerable populations, including Black people, Hispanic people and other groups that have been traditionally underserved in health care. We can and must work together to solve this problem and provide the right care, in the right place, at the right time.

A tale of two cities

To borrow a phrase from Charles Dickens, Delaware, like much of America, is a tale of two cities. The experience of life—including a healthy, safe environment and access to good-quality health care—is vastly different depending on where you live and your demographic background. In the city of Wilmington, for example, ZIP codes that are just a few miles apart represent more than 20 years difference in life expectancy. This is not OK—it's a sign that we have serious structural problems in our communities that are causing harm to people and making their lives shorter.

Importantly, chopping $360 million out of Delaware's hospital budgets, as House Bill 350 would do in year one, is not going to help this problem—it's going to make it worse. And in doing so, it would ultimately make health care in Delaware more expensive—not less expensive.

The key to lowering health care costs is to improve quality, access and equity

Data show that about 5% of patients in the United States account for more than 50% of all health care costs. These are primarily patients who have complex and poorly managed chronic conditions that cause them to end up in the most expensive care settings—hospitals, operating rooms, emergency departments.

The key to driving down health care costs is to improve quality and equity so that everyone is supported in achieving their best health, and these high users of the most expensive kinds of care are better supported in managing their health conditions such as diabetes or heart failure in the appropriate way. In doing so, they prevent the need for costly emergency or "rescue" care.

Let's do more—not less—of what we already know works

Health care is not a one-size-fits-all industry. The delivery of care for patients across a diverse population requires multiple interventions at the same time. These interventions are designed not only to improve the quality of care but also to close the gap in terms of health care disparities. That's important, because when we improve care and outcomes for the most vulnerable populations, we tend to get things right for everyone.

One type of intervention is about doing exactly the right things for a patient based on the evidence of what will help—and doing nothing extra that will cause harm or generate additional costs without providing additional benefit. An example of this might be ensuring that every patient who has a heart attack gets a certain drug called a beta blocker right after their heart attack, and they receive clear guidance and support on the actions they must take to reduce their risk of a second heart attack, such as regular exercise and good nutrition.

The second type of intervention is for the highest-risk populations. These are patients who live in poor communities where there are no gyms and no grocery stores, and people commonly have challenges with transportation and lack of access to resources that makes it difficult—sometimes impossible—to follow their plan for follow-up care. They lack access to high-nutrient food that reduces their risk of a second heart attack. They also live in areas where there are fewer health care providers compared to more affluent areas.

These interventions tend to be very intensive and do not generate income for health systems; in fact, they require significant non-reimbursed investment, but they are necessary to keep our most vulnerable patients healthy.

The medical community has developed interventions for these populations that are proven to work. A local example is the Delaware Food Pharmacy program, which connects at-risk patients with healthy food and supports their ability to prepare it. The program helps patients improve their overall health and effectively manage their chronic conditions so they can prevent an adverse event that would put them back in the hospital or emergency department.

When we work together, we succeed

We've seen incredible examples of how this work can be successful right here in Delaware. Delaware was the first state in the country to eliminate a racial disparity in colorectal cancer, and we did this by expanding cancer services, including making it easy for vulnerable people to get preventive cancer care and screenings. This is an incredible success story that continues to this day, and it was the result of thoughtful, detail-oriented partnerships among the state and the health care community. The work continues as we collaborate to reduce the impact and mortality of breast cancer in our state.

Unfortunately, these kinds of interventions are the first thing to go when health care budgets get slashed, because they don't generate revenue and are not self-sustaining. These kinds of activities need to be funded—either through grants or an external funder, or by the hospitals and health care systems.

By narrowly focusing on cost, we risk losing the progress we have made

Delaware House Bill 350, as it's proposed, would cause harm in two ways:

- First, it would compromise our ability to invest in these kinds of interventions that work.
- Second, it increases the risk that higher-cost health services and programs that are disproportionately needed by people in vulnerable communities could become no longer available in Delaware.

In states where the government has intervened in the name of cutting costs, like Vermont and Massachusetts, we see the consequences–less quality and reduced equitable access to much-needed services. House Bill 350 will widen the gap between those who have means and those who are more vulnerable.

These changes will lead to increased disease burden on these populations. They will end up in the emergency room more and hospitalized more, which is by far the most expensive kind of care. That's not what anyone wants—and it's the opposite of what this bill was intended to accomplish.

At this moment, in Delaware, we have an opportunity to put our state on a sustainable path to better health for all Delawareans. House Bill 350 is not that path. However, the discussion that House Bill 350 has started is something that we can build on by bringing together the stakeholders we need to collaborate with to solve these complicated problems. That includes Delaware's government and legislators, the hospitals and health centers, the insurance, pharmacy and medical device industries, and most importantly, patients and the doctors who care for them.

LeRoi Hicks, M.D., is the campus executive director for ChristianaCare, Wilmington Campus.

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