

Legislative Report - July 2012

Once again, NHMS is grateful for all the time and effort our members and their staff put into supporting or opposing key pieces of legislation. The live testimony, letters, emails and phone calls from physicians have a profound impact on legislators. Thank you!

Tort Reform Bills

SB17, relative to evidence of admissions in medical injury actions (**I'm sorry**), was sponsored by Senator Jeb Bradley, the Senate Majority Leader, at the request of NHMS. The bill proposed to strengthen existing law to protect words of sympathy, apology and fault in any subsequent malpractice trial. The Senate passed the bill with a solid vote of 19-5. After strong opposition from trial attorneys and others, the House took a very different view and eliminated both fault and apology – making the bill basically meaningless. The Senate did not concur with the House changes, and the bill died. The Senate did not request a committee of conference because House leadership made it clear that the full House would not support protecting words of apology or admissions of fault.

SB406, establishing an **early offer** alternative in medical injury claims, was also sponsored by Senator Jeb Bradley, eight other senators and six House leaders, including Speaker O'Brien. At the Senate and House hearings there was strong testimony both for and against the bill. Elliot Hospital led the proponents, which included NHMS, arguing that SB406 was an option for some claimants that would provide a quicker resolution for a patient harmed by medical malpractice. The trial attorneys were joined in their opposition by two medical malpractice carriers that feared an increased number of claims. The bill passed the Senate by a vote of 18-5 and passed the House with an amendment by a vote of 236-103. The House and Senate went on to hold a committee of conference, where two provisions that were opposed by NHMS were changed. Governor Lynch vetoed the bill, but his veto was overridden by the Senate and House.

There were nine other tort related bills that were either killed or sent to interim study. See the full list of bills for more information at www.nhms.org.

Public Health & Safety

NHMS supported two successful bills that make important technical changes to state law regarding **electronic health information exchange: SB223 and SB288**. Please note that the N.H. Health Information Organization (www.nhhio.org) will be securing a technical vendor soon and then looking for physicians and hospitals to join the effort.

SB286. NH finally joined 48 other states in adopting a prescription monitoring program (**PMP**) to assist prescribers and dispensers of class II, III and IV controlled drugs. The bi-partisan bill was sponsored by

Senator Jeb Bradley and more than a dozen other legislators at the request of NHMS and New Futures. Once the program is fully functioning, before writing a controlled drug prescription, a physician will be able to query the PMP to see if the patient has any other prescriptions for controlled drugs. We are hopeful that the PMP will be online in the first quarter of 2013, once the necessary rules are promulgated.

Regulation of Health Care

HB351, sponsored by Rep. John Cebrowski of Bedford, proposed to give **naturopaths** PCP/*primary care provider* status and mandated insurance coverage. The bill was opposed by NHMS and amended with a compromise by the Senate to remove the PCP language, make insurance coverage optional in the group market and mandatory only in the individual market. While NHMS did not support the final version of the bill, it is better than the original bill.

HB1725. Rep. Peter Silva of Nashua, a former manufacturer's representative for a **medical device** company, enlisted several members of House leadership and two senators to sponsor a bill to prohibit physicians from *self-referring* if they or a family member have any financial interest in a device company. The bill as introduced was so broad that it would have prohibited physicians or dentists from getting paid for performing any implant surgery regardless of ownership interest in the device. NHMS offered a compromise to require *disclosure* as is currently the law for certain diagnostic and therapeutic services. Rep. Silva stood firm on his position of a total ban. NHMS mounted a united effort in opposition to the bill when it reached the Senate and was able to convince Senators that since the issue is currently under close review at the federal level by Congress, the GAO and the OIG, NH should study the issue, rather than pass a poorly drafted, overly broad bill.

Certificate of Need repeal (**HB1617**, sponsored by Rep. Frank Holden of Lyndeborough) and special consideration for **Cancer Treatment Centers of America** (**HB1642**, sponsored by Marilinda Garcia of Salem) brought more than 100 people to the first House hearing. Initially NHMS took no position on HB1617, but once the House amended it to subject physician offices to CON review, we actively opposed it. The final version of the bill does not include physician offices and proposes to repeal the CON law in three years. Governor Lynch let the bill become law without his signature.

HB1642, which was opposed by NHMS and the NH Hospital Association, was amended in the House to provide distinct advantages to "specialty hospitals" rather than "cancer treatment hospitals." Fortunately, the bill lacked support in the Senate, where it was tabled.

Practice of Medicine

There were a number of bills this year related to the issue of abortion and several of them were opposed by NHMS because they interfered with the physician-patient relationship and the practice of medicine. Many of the bills were based on opinion and religious positions rather than on medical science. Only two bills made it through the House and Senate, **HB1679** (partial birth) and **HB217** (causing the death of a fetus), and both were vetoed by Governor Lynch. The HB1679 veto was overridden by the House and Senate; the HB217 veto was sustained by the House. The veto messages can be found on the Governor's website, <http://www.nh.gov/news/index.html>.

To read the text or the status of any bill tracked by NHMS, please see the electronic version of the bill list at www.nhms.org. For more information, please contact janet.monahan@nhms.org, scott.colby@nhms.org or catrina.watson@nhms.org.

2012 Legislation List updated 7-2-2012

KEY:

Bill: HB=House Bill, SB=Senate Bill

NHMS Positions: M = monitor, O = oppose, S = support, "S"= support concept or intent, "O" = oppose sections of the bill.

Status: H = House, S = Senate, Committee abbreviation; House or Senate actions: C of C = committee of conference, Ch = 2012 Chapter number, Eff. = Effective Date, ITL = inexpedient to legislate, OTP = ought to pass, OTPam = ought to pass with amendment, RIS = refer for interim study, T = tabled.

Bill Number, Title, Sponsor & Hyperlink to bill text

**NHMS
Position**

Status

TORT REFORM

HB1178 Rel. to the losing party's payment of the prevailing party's costs in tort actions. Rep. Bowers http://www.gencourt.state.nh.us/legislation/2012/HB1178.html	M	JUD - RIS
HB1180 Rel. to awards of noneconomic damages. Rep. Bowers http://www.gencourt.state.nh.us/legislation/2012/HB1180.html	M	H - ITL
HB1181 Rel. to offers of judgments. Rep. B. Murphy http://www.gencourt.state.nh.us/legislation/2012/HB1181.html	M	H - OTP S-not accepted
HB1386 Rel. to offers of judgment. Rep. Murphy http://www.gencourt.state.nh.us/legislation/2012/HB1386.html	M	H - ITL
HB1459 Rel. to court proceedings in civil actions. Rep. Kurk http://www.gencourt.state.nh.us/legislation/2012/HB1459.html	M	H - ITL
HB1594 Abolishing assessment of damages in tort actions by joint and several liability. Rep. Bowers http://www.gencourt.state.nh.us/legislation/2012/HB1594.html	M	H - ITL
HB1616 Rel. to standards and procedures for expert testimony. Rep. Bowers http://www.gencourt.state.nh.us/legislation/2012/HB1616.html	M	H - ITL
SB17 Rel. to evidence of admissions in medical injury actions. Sen. Bradley http://www.gencourt.state.nh.us/legislation/2012/SB0017.html	S	S -Non-concur H - OTPam
SB278 limiting the recovery of health care expenses in personal injury actions and removing "probable duration of life but for the injury" as an element that may be considered in determining damages in a wrongful death action. Sen. Morse http://www.gencourt.state.nh.us/legislation/2012/SB0278.html	S	JUD - RIS

SB325 Rel. to periodic payment of judgments. Sen. Luther http://www.gencourt.state.nh.us/legislation/2012/SB0325.html	M	S - ITL
SB406 Est. an early offer alternative in medical injury claims. Sen. Bradley http://www.gencourt.state.nh.us/legislation/2012/SB0406.html	S	Veto overridden Ch. 288 Eff. 6-27-12 & 1-1-13

INSURANCE & HEALTH CARE COSTS

HB309 Rel. to certain insurance mandates and establishing a committee to study current insurance mandates. Rep. Hunt http://www.gencourt.state.nh.us/legislation/2012/HB0309.html	M	H – OTPam S - HHS - RIS
HB351 Rel. to insurance reimbursement for doctors of naturopathic medicine. Rep. Cebrowski http://www.gencourt.state.nh.us/legislation/2012/HB0351.html	O	Ch. 278 Eff. 1-1-13
HB627 Rel. to “essential benefits” under federal health care reform. Rep. Hunt http://www.gencourt.state.nh.us/legislation/2012/HB0627.html	M	C of C Not signed
HB1197 Req. DHHS commissioner to apply for a state plan waiver. Rep. Abrami http://www.gencourt.state.nh.us/legislation/2012/HB1197.html	M	H - ITL
HB1297 Rel. to health care (insurance) exchanges. Rep. Manuse http://www.gencourt.state.nh.us/legislation/2012/HB1297.html	M	Ch. 231 Eff. 6-18-12
HB1322 Est. a task force to study and recommend options to provide hospitals with the capacity to fund uncompensated care over time. Rep. Foose http://www.gencourt.state.nh.us/legislation/2012/HB1322.html	M	H - ITL
HB1482 Rel. to exemption from property taxes for hospitals. Rep. Hawkins http://www.gencourt.state.nh.us/legislation/2012/HB1482.html	O	H - ITL
HB1493 Rel. to copayments for certain specialists. Rep. Weyler http://www.gencourt.state.nh.us/legislation/2012/HB1493.html	M	COM - RIS
HB1519 Req. hospitals to provide Medicaid patient outpatient services at outpatient Medicaid rates for certain hours. Rep. Weyler http://www.gencourt.state.nh.us/legislation/2012/HB1519.html	M	H - ITL
HB1560 Rel. to the interstate Health Care Compact. Rep. Bettencourt http://www.gencourt.state.nh.us/legislation/2012/HB1560.html	M	H – OTP S – T
HB1590 Req. the disclosure to patients and prospective patients of the charges for medical procedures. Rep. Cohn http://www.gencourt.state.nh.us/legislation/2012/HB1590.html	“O”	H - ITL
HB1599 Rel. to mammography. Rep. K. Hutchinson http://www.gencourt.state.nh.us/legislation/2012/HB1599.html	“O”	H - ITL
HB1613 Rel. to protected health information. Rep. Rosenwald http://www.gencourt.state.nh.us/legislation/2012/HB1613.html	O	HHS RIS
SB220 Rel. to external review under the managed care law. Sen. White http://www.gencourt.state.nh.us/legislation/2012/SB0220.html	M	Ch. 98 Eff. 7-28-12
SB221 Rel. to life, accident and health insurance. Sen. White http://www.gencourt.state.nh.us/legislation/2012/SB0221.html	M	Ch. 99 Eff. 7-28-12
SB223 To make technical changes revisions to the HIO. Sen. White http://www.gencourt.state.nh.us/legislation/2012/SB0223.html	S	Ch. 23 Eff. 4-25-12

SB245 Rel. to health care sharing organizations. Sen. Groen http://www.gencourt.state.nh.us/legislation/2012/SB0245.html	M	Ch. 165 Eff. 8-6-12
SB334 Rel. to unfair Medicare trade practices. Sen. White http://www.gencourt.state.nh.us/legislation/2012/SB0334.html	M	S - OTPam H - ITL
SB336 Rel. to insurance payments for health care providers. Sen. DeBlois http://www.gencourt.state.nh.us/legislation/2012/SB0336.html	S	S –OTPam H – ITL
SB365 Authorizing state residents to join the state health care prg. Sen. Gallus http://www.gencourt.state.nh.us/legislation/2012/SB0365.html	M	S - ITL
SB375 Rel. to a prepaid plan for Medicaid services. Sen. Morse http://www.gencourt.state.nh.us/legislation/2012/SB0375.html	M	Ch. 191 Eff. 6-11-12
PUBLIC HEALTH & SAFETY		
HB228 prohibiting the use of public funds for abortion services. Rep. Willette http://www.gencourt.state.nh.us/legislation/2012/HB0228.html	O	H – OTPam S – T
HB1179 Imposing extended imprisonment for assault against a health care worker. Rep. White http://www.gencourt.state.nh.us/legislation/2012/HB1179.html	M	H - ITL
HB1182 Prohibiting the sale of baby food products containing bisphenol A in NH. Rep. B. Murphy http://www.gencourt.state.nh.us/legislation/2012/HB1182.html	M	H – OTP S – T
HB1255 Rel. to membership on the Commission on Primary Care. Rep. Pettengill http://www.gencourt.state.nh.us/legislation/2012/HB1255.html	S	Ch. 57 Eff. 5-14-12
HB1680 Rel. to the duties of the HHS oversight committee (to compile and maintain pregnancy termination statistics). Rep. Garcia http://www.gencourt.state.nh.us/legislation/2012/HB1680.html	M	Ch. 64 Eff. 5-14-12
SB281 Authorizing law enforcement officers to share relevant communicable disease info with public health authorities. Sen. Rausch http://www.gencourt.state.nh.us/legislation/2012/SB0281.html	M	Ch. 152 Eff. 1-1-13
SB284 Est. pilot projects to improve access to oral health services. Sen. Lambert http://www.gencourt.state.nh.us/legislation/2012/SB0284.html	“S”	Ch. 183 Eff. 6-11-12
SB286 Rel. to a controlled drug health and safety program. Sen. Bradley http://www.gencourt.state.nh.us/legislation/2012/SB0286.html	S	Ch. 196 Eff. 6-12-12
SB287 Rel. to confidential prescription data. Sen. Bradley http://www.gencourt.state.nh.us/legislation/2012/SB0287.html	M	S – nonconcur H – OTPam
SB288 Rel. to the exchange of public health information through a health information exchange. Sen. White http://www.gencourt.state.nh.us/legislation/2012/SB0288.html	S	Ch. 184 Eff. 6-11-12
SB319 Extending the study the effects of service-connected PTSD and TBI injury suffered in the line of duty by members of the armed forces and veterans. Sen. Carson http://www.gencourt.state.nh.us/legislation/2012/SB0319.html	S	Ch. 81 Eff. 5-23-12
SB348 Rel. to the pulse oximetry test for newborns. Sen. Barnes http://www.gencourt.state.nh.us/legislation/2012/SB0348.html	“S”	Ch. 190 Eff. 8-10-12
SB402 Rel. to the adoption of policies for the management of concussion and head injury in youth sports. Sen. Houde http://www.gencourt.state.nh.us/legislation/2012/SB0402.html	S	Ch. 234 Eff. 8-17-12

SB409 relative to the use of marijuana for medicinal purposes. Sen. Forsythe. http://www.gencourt.state.nh.us/legislation/2012/SB0409.html	M	Vetoed Senate Sustained
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PATIENT CARE

HB1216 Rel. to the authority for withholding or withdrawal of life-sustaining treatment. Rep. Itse http://www.gencourt.state.nh.us/legislation/2012/HB1216.html	O	Ch. 251 Eff. 1-1-13
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HB1217 Rel. to the form for executing advance directives for health care decisions. Rep. Itse http://www.gencourt.state.nh.us/legislation/2012/HB1217.html	M	Ch. 252 Eff. 6-18-12
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HB1326 Rel. to advance directives pertaining to nutrition and hydration. Rep. Itse http://www.gencourt.state.nh.us/legislation/2012/HB1326.html	M	H - ITL
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HB1659 Rel. to the woman's right to know act regarding abortion information. Rep. Notter http://www.gencourt.state.nh.us/legislation/2012/HB1659.html	O	H – OTPam S – ITL
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HB1660 Rel. to abortion after 20 weeks. Rep. Willette http://www.gencourt.state.nh.us/legislation/2012/HB1660.html	M	H – OTP S – RIS
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HB1665 Enabling a superior court to implement one or more drug courts. Rep. Harding http://www.gencourt.state.nh.us/legislation/2012/HB1665.html	M	Ch. 218 Eff. 1-1-13
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HB1679 Rel. to partial-birth abortions and third trimester abortions. Rep. Terio http://www.gencourt.state.nh.us/legislation/2012/HB1679.html	M	Veto overridden Ch. 283 Eff. 1-1-13
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REGULATION of HEALTH CARE

HB1265 Rel. to criteria for government regulation of occupations. Rep. Bowers http://www.gencourt.state.nh.us/legislation/2012/HB1265.html	"O"	ED&A - RIS
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HB1471 Rel. to authority for opticians to replace eyeglasses. Rep. Bowers http://www.gencourt.state.nh.us/legislation/2012/HB1471.html	O	H - ITL
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HB1609 Rel. to licensure of polysomnographers by the board of respiratory care practitioners. Rep. Devine http://www.gencourt.state.nh.us/legislation/2012/HB1609.html	M	ED&A - RIS
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HB1617 Repealing the certificate of need. Rep. Holden http://www.gencourt.state.nh.us/legislation/2012/HB1617.html	O	Ch. 282 Eff. 6-30-12
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HB1631 Allowing persons licensed to provide emergency medical services to work at social and sporting events. Rep. Panek http://www.gencourt.state.nh.us/legislation/2012/HB1631.html	M	Ch. 216 Eff. 6-13-12
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HB1642 Rel. to destination cancer hospitals. Rep. Garcia http://www.gencourt.state.nh.us/legislation/2012/HB1642.html	O	H – OTPam S – T
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HB1653 Rel. to the rights of conscience for medical professionals. Rep. Bergevin http://www.gencourt.state.nh.us/legislation/2012/HB1653.html	"O"	H - T
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HB1702 Rel. to materials collected during certain proceedings of the Bd of Med. Rep. B. Patten http://www.gencourt.state.nh.us/legislation/2012/HB1702.html	M	H - ITL
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HB1725 Prohibiting health care practitioner self-referrals for medical devices. Rep. Jasper http://www.gencourt.state.nh.us/legislation/2012/HB1725.html	O	H – OTPam S – HHS RIS
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SB240 Rel. to the regulation of the practice of genetic counseling. Sen. Carson S ED&A - RIS
<http://www.gencourt.state.nh.us/legislation/2012/SB0240.html>

SB346 Extending the committee to study the laws relating to electronic prescriptions. Rep. Stiles M Ch. 109
Eff. 5-29-12
<http://www.gencourt.state.nh.us/legislation/2012/SB0346.html>

MISCELLANEOUS

HB217, amending the first and second degree murder statutes and the negligent homicide statute to include causing the death of a fetus. Rep. Souza O Vetoed
House sustained
<http://www.gencourt.state.nh.us/legislation/2012/HB0217.html>

HB536 Rel. to the right to carry a firearm, openly or concealed, without a license. Rep. Hoell O H – OTPam
S – T
<http://www.gencourt.state.nh.us/legislation/2012/HB0536.html>

HB1330 Est. a committee to study blood testing of drivers after motor vehicle fatalities. Rep. Duarte M H – Non-concur
S – OTPam
<http://www.gencourt.state.nh.us/legislation/2012/HB1330.html>

Please bookmark the Legislative website for easy access to copies & status of bills:

<http://gencourt.state.nh.us/>

On the right side, under "Find a Bill," enter bill # (HB1234), select "Bill text" or "Docket" to find hearing date(s), roll calls, etc.