



NHA | NEBRASKA
HOSPITALS

LEGISLATIVE WRAP-UP

108TH LEGISLATURE | FIRST SESSION

NHA Priority Bills that Passed

NHA Priority Legislation was written, introduced, advocated, and passed by the NHA and the introducing senator. The following NHA Priority Bills passed this session.

LB128

LB219

LB227

LB256

LB434

LB586

LB610

Financial Stability for Hospitals

Hospitals in Nebraska are facing some of the strongest financial headwinds in decades. Hospitals cannot weather the current inflation crises without adequate payments from public programs like Medicaid. The NHA supported increasing Medicaid provider reimbursement rates for all hospitals to keep pace with medical inflation.

LB128 State intent regarding appropriations to the Department of Health and Human Services (Sen. Dorn)

NHA Priority Legislation

NHA Position: Support

Effective Date: July 1, 2023

LB128 appropriated a 9.6% increase to reimbursement rates for inpatient and outpatient hospital services provided under a Medicaid prospective payment system in FY2023-24 and a 7.7% increase to reimbursement rates in FY2024-25. Governor Pillen did not include a Medicaid reimbursement rate increase in his budget proposal. The legislature then voted to increase rates by 3% this fiscal year and 2% next fiscal year. The governor vetoed the FY2024-25 2% increase.

The 3% increase is the largest Medicaid provider rate increase in fifteen years. The governor and several senators stated that they will work with health care stakeholders and revisit provider rate increases next session to determine the appropriate rate increase for FY2024-25.

Future Medicaid rate increases at or below 2 percent will simply not sustain rural health care services. In the months ahead, the NHA will work with legislative supporters and Governor Pillen to develop an innovative Medicaid program that ensures our hospitals will have the resources necessary to care for all Nebraskans.

Medicare and Medicaid reimburse Critical Access Hospitals (CAHs) for the same services as they do for other acute care hospitals; however, their payments are based upon their costs and the share of those costs that are allocated to Medicare and Medicaid patients. CAHs receive cost-based reimbursement for inpatient and outpatient services provided to their patients. The problem is it can take up to 18-24 months to receive full reimbursements. 53% of CAHs are facing financial stress.

The NHA supported legislation that required DHHS to annually set per diem rates based on the most recent cost report. This will allow CAHs to receive reimbursement for more of their costs up front and reduce the amount they have to wait 18-24 months to receive.

LB219 Require the Department of Health and Human Services to rebase rates for critical access hospitals (Sen. Ibach)

NHA Priority Legislation

NHA Position: Support

Effective Date: September 2, 2023

LB219 requires that DHHS shall provide for rebasing inpatient interim per diem rates for critical access hospitals. The department shall rebase the rates on a biannual basis, and the most recent audited Medicare cost report shall be used as the basis for the rebasing process within 90 days after receiving the cost report. (Amended into LB227)

Post-Acute Placement Challenges

The inability for acute care hospitals to discharge patients to skilled nursing facilities or similar long-term care facilities can cause capacity issues for hospitals and have an impact on their care. It is important that patients be placed in the appropriate level of care. Sometimes difficult to place patient stays can exceed 400 days and multiple difficult to place patients can be found in every hospital across the state. The NHA supported legislation (LB227) to reimburse hospitals for boarding medically cleared patients awaiting discharge to post-acute settings and the additional bills included in the LB227 package .

LB227 Change provisions relating to public health and welfare (Sen. Hansen)

NHA Priority Legislation

NHA Position: Support

Effective Date: September 2, 2023

LB227 requires the state Department of Health and Human Services to provide Medicaid reimbursement to a hospital at 100 percent of the statewide average nursing facility per diem rate when a Medicaid enrollee:

- Has been admitted as an inpatient to such hospital;
- No longer requires acute inpatient care and discharge planning;
- Requires nursing facility level of care upon discharge; and
- Is unable to be transferred to a nursing facility due to a lack of available nursing facility beds or where the transfer requires a public guardian and the State is unable to appoint a public guardian.

DHHS shall use Medicare standards and criteria for determining whether a hospital is eligible for reimbursement or a supplemental payment for the use of swing beds. For any hospital that is not a critical access hospital, DHHS shall use the terms of a federal waiver. DHHS shall obtain approval from the federal government to implement the reimbursement provisions under this bill.

The LB227 amendment also added provisions of these additional bills to support post-acute care placement challenges:

LB434 Require the Department of Health and Human Services to enroll long-term care hospitals as providers under the medical assistance program and submission of a state plan amendment or waiver (Sen. Jacobson)

NHA Priority Legislation

NHA Position: Support

Effective Date: June 6, 2023

LB434 requires DHHS to enroll long-term care hospitals as providers under Medicaid. Two Nebraska hospitals will be impacted by this change.

LB157 Provide for appointment of temporary guardians (Sen. DeBoer)

NHA Position: Support

Effective Date: September 2, 2023

LB157 limits the authority to appoint a limited temporary guardian to Douglas and Lancaster Counties. It also creates a procedure for appointing and compensating a limited temporary guardian in the event the Public Guardian is unable to accept the appointment is created.

LB517 Require the Department of Health and Human Services to pay discharge incentives to post-acute placement facilities (Sen. Walz)

NHA Position: Support

Effective Date: September 2, 2023

LB517 requires DHHS to implement a pilot program to facilitate the transfer of patients with complex health needs from eligible acute care hospitals to appropriate post-acute care settings. The amendment includes \$1 million to carry out the pilot program.

Insurance Reform

The rising costs of health care can largely be attributed to insurance companies focused on their profits over patient care. The NHA will not sit on the sidelines while insurance companies sacrifice patient safety and access to care.

Telehealth provides an alternative effective delivery of care and cost saving opportunities for plans, providers, and beneficiaries. Providers must be fairly compensated for their time and the infrastructure necessary to provide telehealth services. At reduced rates, many providers won't be able to afford to offer telehealth. A provider's time commitment is pretty much the same whether it is telehealth or an in-office visit.

LB256 Change provisions related to insurance coverage of telehealth (Sen. Brewer)

NHA Priority Legislation

NHA Position: Support

Effective Date: September 2, 2023

LB256 requires insurance reimbursement rates for a telehealth service to be at least as much as a comparable in-person health care service who must be at a physical location in Nebraska or is employed by or holds medical staff privileges at a licensed facility in Nebraska that provides in-person health care services in the state. (Amended into LB296)

The NHA worked with senators and other health care stakeholders to ensure that important patient centered insurance changes were implemented this session, including:

LB145 Change provisions relating to coverage for screening mammography and breast examinations (Sen. Bostar)

NHA Position: Support

Effective Date: January 1, 2024

LB145 changes the frequency of required private insurance coverage for mammograms from every two years for patients over age 50, to at the discretion of the health care provider for women under age 40 who have a family history of breast cancer, and every year for women age 40 or older.

LB383 Change provisions relating to insurance coverage for screenings for colorectal cancer (Sen. Bostar)

NHA Position: Support

Effective Date: January 1, 2024

LB383 requires that no insurance policy or any self-funded employee benefit plan shall impose a deductible, coinsurance, or any other cost sharing requirements for screening colonoscopies, including those performed as a result of a positive non colonoscopy stool-based preventive screen test as approved by the U.S. Preventive Services Task Force.

LB779 Limit the amount an insured pays for prescription insulin drugs (Sen. Bostar)

NHA Position: Support

Effective Date: January 1, 2024

LB779 requires any insurance policy, which provides reimbursement for prescription insulin drugs, to limit the total amount that a covered individual is required to pay for a covered prescription insulin drug to a maximum of \$35 per 30-day supply of insulin, regardless of the amount or type of insulin needed to fill the covered individual's prescription.

LB419 Require submission of a Medicaid state plan amendment to extend postpartum coverage (Sen. Wishart)

NHA Position: Support

Effective Date: September 2, 2023

LB419 extends Medicaid coverage for postpartum from 60 days to 12 months.

Workforce

More than ever before, workforce shortages are one of the main challenges facing hospitals. The health care workforce shortage affects both Nebraska's physical health and its economic health. Recruitment and retention of health professionals has long been a persistent challenge for rural providers. The NHA worked on legislation to support the future pipeline of health care workers through two bills. LB586 provides grant funding that expands nurse clinical training and nurse facility sites across the state. LB610 appropriates additional Career & Technical Education (CTE) funding for secondary and post-secondary students and organizations. These efforts will ensure hospitals and health systems have the necessary workforce to continue to care for patients in our communities.

LB586 Provide duties for the Nebraska Center for Nursing regarding clinical training sites (Sen. Riepe)

NHA Priority Legislation

NHA Position: Support

Effective Date: September 2, 2023

LB586 provides duties for the Nebraska Center for Nursing regarding clinical training sites. (Amended into LB227)

The amendment includes \$3 million in each of the next two years for the Nebraska Center for Nursing to:

- Incentivize clinical nurses to become clinical nurse faculty;
- Incentivize nurse faculty to partner with staff nurses in the development of clinical nurse faculty;
- Expand simulation training for nurse clinical education; and
- Incentivize facilities to support the center in providing clinical education.

LB610 Appropriate funds to the State Department of Education for Career & Technical Education and Career Technical Student Organizations (Sen. Lippincott)

NHA Priority Legislation

NHA Position: Support

Effective Date: July 1, 2023

LB610 was included in the budget and appropriates \$5.216 million in cash funds to the Nebraska Department of Education for both FY23-24 and FY24-25 for Career & Technical Education (CTE) programs. The funds will be distributed between secondary & post-secondary schools according to the formula used for federal Perkins funds with each district receiving at least \$7,500.

LB610 also includes \$200,000 for both FY23-24 & FY24-25 to be evenly distributed between the various Career Technical Student Organizations (CTSOs), including HOSA – Future Health Professionals.

Additional Enacted Legislation that Impacts Nebraska Hospitals

LB68 Increase limits on medical malpractice liability and change provisions of the Nebraska Hospital-Medical Liability Act (Sen. Slama)

NHA Position: Support with Amended Language

Effective Date: January 1, 2025

LB68 amends the Nebraska Hospital-Medical Liability Act applies to policies issued after 2025. Increases physician and CRNA personal coverage requirement from \$500,000 per occurrence/\$1 million aggregate to \$800,000/\$3 million. Adjusts hospitals' requirements from \$500,000/\$3 million to \$800,000/\$3 million. (Amended into LB92)

LB276 Adopt the Certified Community Behavioral Health Clinic Act (Sen. Wishart)

NHA Position: Support

Effective Date: May 25, 2023

LB276 provides legislative intent to increase access to mental health and substance use treatment and expand capacity to address increased need and establish innovative community partnerships with law enforcement, schools, and hospitals to improve care, reduce recidivism, and address health disparities. The bill requires DHHS to develop a prospective payment system under Medicaid for funding certified community behavioral health clinics. Such system shall permit either daily or monthly payment rates. DHHS shall submit to CMS any approval request necessary for a Medicaid state plan amendment to implement. LB276 passed with an emergency clause making it effective May 25, 2023, but the \$4.5 mill funding is only an intent until FY 2025-26. Requires PPS implementation prior to January 1, 2026.

Additional Enacted Legislation that Impacts Nebraska Hospitals

LB91 Change motorcycle, moped, and autocycle helmet and eye protection provisions (Sen. Hansen)

NHA Position: Opposed

Effective Date: January 1, 2024

A helmet is not required if the rider is 21 years old and has taken a Motorcycle Safety Foundation basic course. Eye protection or a sufficient windshield is required. (Amended into LB191)

LB191 Adopt the Critical Infrastructure Utility Worker Protection Act and change provisions relating to the Contractor Registration Act, the Employment Security Law, the Nebraska Workers' Compensation Act, and the Rural Workforce Housing Investment Act (Sen. Halloran)

NHA Position: Monitor

Effective Date: September 2, 2024

LB191 makes confidential workers' compensation injury reports for 60 days after filing with exceptions for employers and investigation of claims.

LB315 Prohibit providers of services relating to examination or treatment of injuries from sexual assault, domestic assault, and child abuse from taking certain debt enforcement actions against victims (Sen. Fredrickson)

NHA Position: Monitor

Effective Date: September 2, 2024

LB315 prohibits any health care provider, emergency medical services provider, laboratory, or pharmacy providing services related to the examination or treatment of injuries arising out of sexual assault from: referring a bill from such services to a collection agency or attorney for collections; distributing information on payment status from such services in a way that would affect the victim's/guardian's/family's credit rating; or taking any other action adverse to the victim/guardian/family. An entity described may still seek payment for such services provided when it does not violate above conditions. (Amended into LB157)

*Please contact the Nebraska Crime Victims Reparations Office for more information on compliance 402-471-2828

LB640 Require an off-campus location of a hospital to obtain and use a separate National Provider Identifier in billing for health care services (Sen. Kauth)

NHA Position: Oppose

Effective Date: September 2, 2024

LB640 requires an off-campus hospital to obtain and use a separate National Provider Identifier for all claims of payment the affiliated hospital uses. The statute defines an "off-campus hospital" as a hospital that another hospital owns, is one mile outside the main campus, integrated with the hospital's organization, and provides hospital services. (Amended into LB296)

LB337 Change provisions relating to disclosure of patient information under the Mental Health Practice Act (Sen. Riepe)

NHA Position: Monitor

Effective Date: September 2, 2024

LB337 Allows disclosures by mental health practitioners of information permitted under HIPAA or otherwise permitted by law. (Amended in LB50)

LB574 Adopt the Let Them Grow Act and the Preborn Child Protection Act and provide for discipline under the Uniform Credentialing Act (Sen. Kauth)

NHA Position: Monitor

Effective Date: October 1, 2023

LB574 prohibits a health care practitioner from performing gender altering procedures for an individual younger than 19 or referring an individual younger than 19 for gender altering procedures. Such actions are considered unprofessional conduct in violation of the Uniform Credentialing Act. LB574 does not apply to the continuation of treatment using puberty-blocking drugs, cross-sex hormones, or both when the course of treatment began before the operative date of this section; and to not apply to nonsurgical gender-altering procedures when such procedures are provided in compliance with the rules and regulations adopted and promulgated by the DHHS Chief Medical Officer. The rulemaking shall specify the minimum number of gender-identity-focused therapeutic hours required prior to an individual receiving puberty-blocking drugs, cross-sex hormones, or both and a minimum waiting period between the time the health care practitioner obtains informed patient consent and the administration, prescribing, or delivery of puberty-blocking drugs, cross-sex hormones, or both to such patient.

LB626 Adopt the Nebraska Heartbeat Act (Sen. Albrecht)

NHA Position: Monitor

Effective Date: May 22, 2023

LB626 requires physicians to perform and document an ultrasound prior to an abortion. Makes it unlawful for a physician to knowingly perform an abortion if there is a detectable fetal heartbeat. Violation is disciplinary action by DHHS up to and including revocation of the physician's credential to practice. Recognizes affirmative defenses that a medical emergency existed or the pregnancy resulted from first degree sexual assault, first degree sexual assault of a child, or incest. Shields woman upon whom an abortion is attempted, induced, or performed from prosecution under the Act. Includes a 12-week abortion ban with exceptions in the case of fetal anomalies, sexual assault, or incest. Ban applies at 12 weeks gestational age (vs 12 weeks post-fertilization). (Amended into LB574)

NHA Priority Legislation Carried to Next Session

LB149 State intent regarding appropriations and rebasing rates under the medical assistance program (Sen. Jacobson)

Status: In Appropriations Committee

LB149 increases funding for rebasing Medicaid inpatient per diem rates for psychiatric facilities, hospital-based psychiatric units, psychiatric residential facilities, rehab facilities and hospital-based rehab units. Intends rates to be rebased annually using the most recent audited Medicare cost report.

- LR171 was introduced as an interim study to examine this issue closer

LB448 Prohibit certain provisions in a health plan in relation to clinician-administered drugs (Sen. Bostar)

Status: In Banking, Commerce and Insurance Committee

LB448 prohibits the practice known as "White Bagging." LB448 states that an insurance policy shall not:

- Refuse to authorize or pay a provider for providing covered clinician-administered drugs and related services;
- Impose limitations or require an enrollee to pay an additional fee when obtaining clinician-administered drugs from a health care provider or a pharmacy;
- Interfere with the right of a patient to choose to obtain a clinician-administered drug from such patient's provider;
- Require clinician-administered drugs to be dispensed by a pharmacy selected by the insurer;
- Limit or exclude coverage for a clinician-administered drug when such drug is not dispensed by a pharmacy selected by the health plan if such drug would otherwise be covered;
- Reimburse at a lesser amount a clinician-administered drug dispensed by a pharmacy not selected by the insurer;
- Condition or refuse to authorize, or reduce payment to a participating provider for providing covered clinician-administered drugs and related services when the participating provider obtains clinician-administered drugs from a pharmacy that is not a participating provider in the insurer's network, if all criteria for medical necessity are met;
- Require an enrollee to pay an additional fee, for clinician-administered drugs when not dispensed by a pharmacy selected by the insurer; or
- Require a specialty pharmacy to dispense a clinician-administered medication directly to a patient with the intention that the patient will transport the medication to a health care provider for administration.

An insurance policy may offer, but shall not require: (i) The use of a home infusion pharmacy to dispense clinician-administered drugs to patients in their homes; or (ii) The use of an infusion site external to a patient's provider office or clinic.

LB335 Adopt the Health Care Staffing Agency Registration Act (Sen. Halloran)

Status: Advanced to General File with Speaker Priority Designation

LB335 requires a health care staffing agency to register annually with the Department of Labor and provide information to the Department about the company, including insurance coverage, background checks of staff, and documentation that staff meets minimum licensing, certification, or training requirements. LB335 also:

- Requires a health care staffing agency that contracts with a health care facility or service participating in Medicare or Medicaid provide amounts charged to facilities for each category of staff member and the average amount paid to staff members in each category;
- Requires a schedule of fees for health care staffing agencies be filed with the Department, requires 30 day notice to the Department to change such fees;
- Bars non-compete clauses in employment contracts with health care staffing agencies. Bars health care staffing agencies from requiring the payment of liquidated damages or employment fees if staff is subsequently hired as a permanent employee of the facility;
- Makes employment contracts violating the act unenforceable in court;
- Sets up a system for the public to report complaints against health care staffing agencies;
- Allows the Commissioner of Labor to issue citations to health care staffing agencies when an investigation reveals the agency violated the act;
- Creates a publicly available database of registered health care staffing agencies.

Please contact your state senators asking them to support these important bills.

Interim Studies

LR137 - Interim study to examine whether legislation should be enacted to provide for comprehensive regulation of the business practices of pharmacy benefit managers. (Sen. Bostar)

LR171 - Interim study to examine the cost and needed frequency of rebasing Medicaid inpatient per diem rates for psychiatric facilities, hospital-based psychiatric units, and psychiatric residential facilities. (Sen. Jacobson)

LR203 - Interim study to review how the State of Nebraska can ensure it has effective emergency medical services in rural communities. (Sen. Dorn)

LR204 - Interim study to investigate whether the Office of Public Guardian is able to serve the State of Nebraska effectively. (Sen. DeBoer)

LR213 - Interim study to review how the State of Nebraska can assist licensed hospitals in converting to the rural emergency hospital designation under the federal Consolidated Appropriations Act of 2021. (Sen. Ibach)

A special thanks to all of the members of the 2023 Policy Development Committee

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The NHA staff would like to thank everyone who participated in the development of public policy during the 2023 legislative session. Your efforts of attending NHA meetings, participating in conference calls and contacting policymakers on behalf of Nebraska's hospitals, are invaluable. The NHA's advocacy priorities are driven by our vision of providing high-quality, accessible health care to the patients we serve.

Through the Board of Directors, the Policy Development Committee, the NHA PAC Steering Committee, membership and staff, the NHA strives to promote public policy issues to make positive changes in Nebraska's health care environment.

Throughout the upcoming years, hospitals will need champions in the legislature to deal with the issues that impact the operations and success of hospitals. Hospital representatives must be ready to engage in discussions vital to the communities they serve and to the mission of hospitals across Nebraska. **Together, we are the influential voice of Nebraska's hospitals.**

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