



Office of
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Commonwealth of Massachusetts

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**Representative Kane supports health care market review
legislation to preserve patient care in Massachusetts**

*Rep. Kane conferees on reform bill to address issues raised by Steward
bankruptcy filing*

BOSTON – State Representative Hannah Kane (R-Shrewsbury) is backing a comprehensive hospital oversight reform bill to preserve patient care and impose safeguards to prevent a repeat of the Steward Health Care bankruptcy crisis.

House Bill 5159, *An Act enhancing the market review process*, calls for improved reporting requirements, additional financial statement disclosures, and expanded health care market oversight powers for the Attorney General. The bill represents a compromise agreement negotiated by a six-member conference committee that worked to resolve the differences between prior versions of the bill passed in both legislative branches.

Representative Kane, who supported the original House version of the bill that was engrossed on a vote of 152-1 on May 16, said the conference committee report was approved by the House of Representatives and the Senate on December 30 and is now on Governor Maura Healey’s desk for her review and signature.

“The crisis and long-term impacts to the health care system that Steward Health Care caused through financial greed and negligence has led to the important reforms in this legislation that will strengthen oversight of the Commonwealth’s health care system, helping to prevent future crises and ensure Massachusetts residents have access to high-quality care,” stated Representative Hannah Kane (R-Shrewsbury).

Current law requires hospitals to provide the Department of Public Health (DPH) with 90 days’ notice prior to the closure of the hospital or the discontinuation of any essential health services at the facility, to be followed by a public hearing by DPH. Representative Kane noted the conference committee report expands the current law by authorizing DPH to seek an impact analysis of a closure of a hospital or any essential health service from the Health Policy Commission (HPC).

Representative Kane said that in addition to these changes, the bill adjusts the Determination of Need (DON) process by expanding the factors that DPH must consider in its review of an application for a DON certificate. This includes relevant data from the Center for Health Information and Analysis (CHIA) and the HPC, including any cost market impact review report; the state’s cost containment goals; impact on patients and the surrounding healthcare providers; and impact on residents.

In addition to barring DPH from issuing a license to establish or maintain an acute care hospital unless the applicant is in compliance with CHIA reporting requirements, House Bill 5159 prohibits DPH from licensing the establishment or maintenance of an acute care hospital if the hospital’s main campus is leased from a health care real estate investment trust but provides an exemption for any acute hospital leasing its main campus from such an entity as of April 1, 2024. It also prohibits DPH from issuing a license to establish or maintain an acute

care hospital unless the applicant discloses, as part of its application, all documents related to any lease, master lease, sublease, license or any other agreement for the use, occupancy or utilization of the premises to be occupied by the acute care hospital. These provisions are a direct response to what happened with Steward Health Care, which sold its properties to a real estate investment trust in 2016 and began leasing them but fell behind on its payments before filing for bankruptcy.

According to Representative Kane, House Bill 5159 also expands the Attorney General's role in overseeing the state's health care market. For example, it allows the Attorney General to obtain information from significant equity investors, health care real estate investment trusts and management services organizations. The bill also extends liability for False Claims Act (FCA) violations to people who have an ownership or investment interest in any person who violates the FCA, knows about the violation, and fails to disclose it to the state within 60 days.

Representative Kane cited other key provisions contained in the bill, including:

Material Change Notice Process – Expands the list of transactions that fall under the material change notice process to include: significant expansions in a provider or provider organization's capacity; transactions involving a significant equity investor which result in a change of ownership or control of a provider, provider organization or a carrier; significant acquisitions, sales or transfers of assets including, but not limited to, real estate sale lease-back arrangements; and conversion of a provider or provider organization from a non-profit entity to a for-profit entity.

CHIA Reporting Requirements – Enhances hospital and provider organization reporting requirements by requiring hospitals to report to CHIA their audited financial statements of the parent organization's out-of-state operations, significant equity investors, health care real estate investment trusts and management services organizations. Further requires financial statements submitted by provider organizations to CHIA to include information on parent entities including their out-of-state operations, and corporate affiliates, including significant equity investors, health care real estate investment trusts and management services organizations. Under the bill, these reporting requirements are increased from a bi-annual to an annual basis.

Penalty for Failure to Timely Report Information – Increases the fines that CHIA may assess on a health care entity for failure to timely report information from \$1,000 to \$25,000 per week for each week of delay and removes the current maximum annual penalty of \$50,000 for such a violation.

Notice of Repossession of Medical Equipment – Mandates that an impending action, including financial delinquency, concerning the repossession of medical equipment, be reported by a facility to DPH within 1 calendar day. Further prohibits a contract between a facility and a lessor of medical equipment to authorize the repossession of medical equipment or supplies unless the lessor provides a notice of financial delinquency to DPH 60 days in advance.

Licensing of Office Based Surgical Centers – Requires DPH to establish regulations and practice standards for the licensing of office based surgical centers and allows the department to determine which regulations applicable to an ambulatory surgical center will apply.

Licensing of Urgent Care Centers – Requires DPH to establish regulations and practice standards for the licensing of Urgent Care Centers.

Inventory of Healthcare Resources – Establishes within the HPC an Office for Health Resource Planning, which will develop a state health resource plan to identify: (i) the anticipated needs of the Commonwealth for health care services, providers, programs and facilities; (ii) the existing health care resources, providers, programs and facilities available to meet those needs; (iii) the projected resources, including the health care workforce, necessary to meet those anticipated needs; (iv) recommendations for the appropriate supply and

distribution of resources, workforce, programs, capacities, technologies and services on a statewide and regional basis; (v) the priorities for addressing those needs; and (vi) recommendations for any further legislative, regulatory or other state action to assist the Commonwealth in achieving the recommendations identified in the plan.

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