Office of
Representative Hannah E. Kane
Commonwealth of Massachusetts

Rep. Kane supports bill to protect community hospitals from unfair competition

BOSTON – State Representative Hannah Kane (R-Shrewsbury) recently supported legislation that would update the determination of needs process for Massachusetts health care facilities to help protect community hospitals from unfair competition.

House Bill 4253, *An Act enhancing the market review process,* would also strengthen consumer protection and enforcement measures through the Attorney General's office. The bill was engrossed on a vote of 158-1 in the House of Representatives on November 17.

Representative Kane said the bill authorizes the Health Policy Commission (HPC) to conduct a cost and market impact review to determine if any planned hospital expansion would create a dominant market share for the services offered by the health care provider or would lead to higher prices for the same services in the same market. The HPC would also be authorized to initiate a review to determine if the proposed expansion would have a "significant impact" on competition or the state's ability to meet its health care costs growth benchmark. In addition, the Attorney General's office would be empowered to conduct an investigation based on HPC's findings, and to take appropriate action to protect consumers, including seeking injunctive relief based on unfair methods of competition or unfair and deceptive trade practices.

House Bill 4253 also calls for the Health Planning Council, which currently falls under the Executive Office of Health and Human Services, to be re-constituted under the Health Policy Commission, and to assemble an advisory committee of up to 15 members reflecting "a broad distribution of diverse perspectives on the health care system." The 11-member Council would be responsible for developing a five-year state health plan that identifies existing health care resources; anticipated needs for health care services and providers; the resources necessary to meet those health care needs; and priorities for addressing those needs, including ways to address existing health care disparities across multiple demographics.

Representative Kane noted that House Bill 4253 requires the Health Planning Council to hold at least four public hearings annually across the state to solicit feedback on developing the state health plan. The first state health plan must be submitted to the governor and the legislature by January 1, 2023. The Council will also be responsible for filing an annual interim report on its activities by July 1 and a final report by January 1 with the Joint Committee on Health Care Financing.

House Bill 4253 requires the Department of Public Health to utilize the state health plan, along with data from the Center for Health Information and Analysis and information provided by the HPC's cost and market impact review, when making a determination of need. The bill also prevents DPH from acting on a determination of need application unless it has been on file for at least 30 days, the appropriate state agencies have been notified and given adequate opportunity to provide information and commentary, and any requests for a public hearing have been fulfilled.

The House bill also establishes a new process for determination of need applications when the primary service area of the proposed project overlaps with the primary service area of an existing independent community hospital. In these instances, the bill empowers impacted independent community hospitals to petition the superior and supreme judicial courts and establishes civil penalties to address violations.

In addition, the bill establishes a task force that will provide recommendations for financing the HPC, with a report due by June 1, 2022. Currently, the HPC is financed through an assessment on insurance companies and hospitals.

House Bill 4253 now heads to the Senate for its consideration.

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