



May 7, 2024

Brian Frazee
President & CEO

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

Beebe Healthcare
David A. Tam,
MD, MBA
President & CEO
DHA Board Chair

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

ChristianaCare
Janice E. Nevin,
MD, MPH
President & CEO
DHA Board Vice Chair

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.

Bayhealth
Terry Murphy
President & CEO
DHA Board Secretary &
Treasurer

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.

Nemours Children's Health
Mark Marcantano
President
Delaware Valley
Operations

TidalHealth Nanticoke
Penny Short, MSM, BSN,
RN
President

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.

Saint Francis Hospital
James Woodward
President & CEO
Trinity Health Mid-
Atlantic Region

Delaware Healthcare Association
Brian W. Frazee
President & CEO

- 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
President & CEO
Delaware Healthcare Association

CC: Members of the Senate Executive Committee