



To: House Committee on Corporations
From: Care New England Health System
Date: April 14, 2026
Subject: Care New England Opposition to H 8401- An Act Relating To Insurance -- Unauthorized Insurance Business -- Medical Malpractice Insurance

Dear Chairman Solomon and members of the Committee,

We write in opposition to H8401, which proposes an overhaul to the way that healthcare professional liability insurance covers Care New England’s hospitals and doctors.

We commend the bill sponsors for identifying a critical issue of concern created by two for-profit health systems – Prospect here in Rhode Island, and Steward in Massachusetts – that failed to fulfill their healthcare professional liability insurance obligations through their financial insolvency, leaving their hospitals, physicians and patients mired in uncertainty and faced by potential financial peril.

Although we agree that this problem is worthy of solving, Care New England is asking this Committee for the opportunity to collaborate with the General Assembly on identifying and solving the right problem. We understand that the goal of this legislation is to give the Department of Business Regulation visibility into healthcare professional liability insurance. H8401 goes far beyond what is necessary to ensure reliable, sustainable healthcare professional liability self-insurance, which is critical to continued healthcare access in Rhode Island. Instead, it places catastrophic burdens on the business operations of Care New England, risking further strain on an already strained system.

I. Identifying the Problem – Enforcement

R.I. Gen. Laws § 27-16-2.6 already provides visibility into healthcare professional liability insurance.

Care New England, along with the largest hospital system in this state, Brown Health, annually comply with the statutory filing requirements of R.I. Gen. Laws § 27-16-2.6 by providing to the Department “a certified financial statement with actuarial projections as to the soundness of [the self-insurer’s] reserving.” These are the statutory requirements because these reports are inherently reliable due to their preparation by outside professionals who are bound by professional standards and adhere to recognized professional principles. A certified financial statement is inherently reliable because it has been audited by a Certified Public Accountant in accordance with Generally Accepted Accounting Principles. Actuarial soundness reports are likewise reliable because they are prepared by licensed actuaries, adhering to established criteria and methodologies. The statutorily mandated self-insurance reserve funds are domiciled in regulated, recognized, reliable captive jurisdictions with their own sets of regulations and controls.

The shortcoming of the current form of R.I. Gen. Laws § 27-16-2.6 is neither visibility nor assurance as to the financial soundness of the self-insurance program. It is in enforcement.

The Department of Business Regulation will confirm that only Care New England and Brown Health comply with the filing requirements of R.I. Gen. Laws § 27-16-2.6. Prospect did not comply with R.I. Gen. Laws § 27-16-2.6. Now, having evaded the Department’s oversight, its lack of appropriate funding and reserves is met with surprise, creating uncertainty for critical stakeholders.

Rather than mandating that the Department of Business Regulation regulate healthcare professional liability insurance in the same way that commercial insurers are regulated – which this bill does – a slight revision to the bill would allow the pertinent information to be discovered, monitored, and if necessary, acted upon.

We suggest that this Committee consider legislation that would give the Department of Business Regulation’s Insurance Division the ability to enforce the existing requirements of R.I. Gen. Laws § 27-16-2.6 and add proof of insurance as a requirement for licensure to the Department of Health’s facilities regulations, which would easily increase visibility into the financial stability of healthcare professional liability insurance without upending the system entirely.

II. The importance of R.I. Gen. Laws § 27-16-2.6

The current form of R.I. Gen. Laws § 27-16-2.6, which has been law since 1990, has allowed Care New England to affordably provide professional liability insurance for hospitals, hospital employed physicians, and physicians affiliated with Care New England hospitals for more than thirty years.

R.I. Gen. Laws § 27-16-2.6 arose out of a years’ long effort to reform healthcare professional liability insurance for hospitals and doctors in Rhode Island because the commercial insurance market was, and continues to be, reluctant to provide coverage in this market for a variety of jurisdiction specific reasons that make healthcare professional liability risk uniquely costly.

In 1976, this Assembly enacted R.I. Gen. Laws § 42-14.1-1, which permitted the Department of Business Regulation to create the Medical Malpractice Joint Underwriting Association, a statutorily created insurer of last resort, “[u]pon a finding by the director of business regulation that a competitive, stable market for medical malpractice insurance is lacking in the state of Rhode Island and that as a consequence thereof, there is peril to the public health, safety, and welfare of the people of the state of Rhode Island.” The Director made such a finding, and created the MMJUA, as one of many reforms to stem the tide of the bleeding commercial market, and both the MMJUA and the absence of a viable commercial malpractice insurance market continue to exist today.

With additional modifications and various strategies already tested over the course of ten years, the General Assembly again found crisis conditions in the healthcare professional liability market in 1986 when it enacted .L. 1986, ch. 350, "An Act Relating to Malpractice," which included legislative findings that the MMJAU was at the risk of insolvency due to “a significant number of medical and dental malpractice claims have been filed against a relatively few health care providers,” leading “the General Assembly acting within the scope of its police power” to enact further reforms to address ongoing distress in the professional healthcare liability market.

Shortly thereafter, in 1990, to further remedy the recognized crisis in healthcare professional liability insurance, the General Assembly enacted R.I. Gen. Laws § 27-16-2.6 as part of its 1990 budget package. It was devised to serve a dual purpose: (1) to reduce the overall cost of malpractice coverage for physicians and hospitals; and (2) to ensure the financial soundness of the self-insurance provided by the hospitals.

Understanding the origin of R.I. Gen. Laws § 27-16-2.6 as part of a long term collaboration among legislators, insurance experts, the hospitals, the courts, and many other stakeholders should give immediate pause to passing a bill that would upend a stable system that has become a cornerstone of Rhode Island hospital operations.

III. The harm caused by H8401

H8401 destroys the primary rationale of reducing the overall cost of malpractice coverage. It risks yet another dramatic increase to the cost of insurance, which necessarily increases the overall cost of care in an already distressed healthcare system. H8401 does little to strengthen the latter concern of ensuring financial soundness while proposing a dramatic increase to the cost of operating a self-insurance program, which imperils the viability of the self-insurance system altogether.

Self-insurance and indemnification under R.I. Gen. Laws § 27-16-2.6 have become the primary means by which hospitals and physicians are covered for healthcare professional liability in Rhode Island. The impacts of H8401 would be immediate and severe.

H8401 dictates that “a self-insurance program for medical malpractice liability . . . shall be subject to the full regulatory authority, review, and approval of the department of business regulation,” and it requires that the Department of Business Regulation “establish standards” for:

- (1) Financial solvency;
- (2) Reserve Adequacy;
- (3) Claims-paying ability; and
- (4) Governance and risk management.

It gives the Department the authority to examine and audit operations and passes the cost of this additional administrative burden onto the hospital.

This level of regulation will entirely undermine the cost-efficiency purposes of R.I. Gen. Laws § 27-16-2.6, causing immediate, catastrophic financial burden to Care New England’s hospitals. It risks eliminating the benefit of self-insurance entirely with no genuine commercial market to step in to provide coverage.

In addition to burdensome, costly regulation and loss of self-governance, Care New England would be precluded from indemnifying physicians who are not directly employed by its hospitals, which was a critical feature of R.I. Gen. Laws § 27-16-2.6 when it was passed. H8401 permits self-insurance only, removing the critical ability for “hospitals affiliated with an accredited medical school . . . agreeing to indemnify . . . physicians, including physicians’ incorporated or unincorporated practices and employees . . . affiliated with the hospital” for professional liability. This omission would leave a host of independent physicians without malpractice coverage, risking even more physicians leaving practice in Rhode Island, including the many pediatricians and Ob/Gyns who Care New England covers in this way, who already are in short supply.


IV. Conclusion

Care New England welcomes collaboration with the General Assembly and the Department of Business Regulation to reach a solution to the shortcomings revealed by Prospect’s insolvency. H8401 does not do so, and instead, inflicts significant harm on Care New England’s ability to continue its operations.

For hospitals and doctors in Rhode Island, there is no viable commercial insurance market for healthcare professional liability insurance to step in if H8401 makes self-insurance cost prohibitive and prohibits indemnification of independent physicians. Without continuing to allow the hospitals to self-insure, the General Assembly risks re-creating the very same crisis it averted with the legislation it passed in 1976, 1986, and 1990 to ensure access for hospitals and doctors to financially sound healthcare professional liability insurance coverage at a reasonable price that does not collapse Rhode Island’s fragile healthcare infrastructure. H8401 reflects an enormous step backwards in continuing this longstanding legislative goal.

Care New England is committed to providing affordable, accessible healthcare to Rhode Islanders. We ask that this committee assist us in continuing to do so by voting against H8401.

Respectfully yours,



Michael Wagner, MD

Care New England Health System