Bill as Introduced

HB 187 - AS AMENDED BY THE HOUSE

24Feb2021... 0161h
7Apr2021... 0952h

2021 SESSION

21-0173
04/05

HOUSE BILL ***187***

AN ACT relative to the emergency powers of the commissioner of health and human services and relative to the membership of the oversight committee on health and human services.

SPONSORS: Rep. Marsh, Carr. 8; Rep. Lang, Belk. 4; Rep. Baldasaro, Rock. 5; Rep. Edwards, Rock. 4; Rep. Craig, Coos 4; Rep. Prout, Hills. 37; Rep. J. Osborne, Rock. 4; Rep. Salloway, Straf. 5; Rep. Blasek, Hills. 21

COMMITTEE: Health, Human Services and Elderly Affairs

AMENDED ANALYSIS

This bill makes various changes to the powers of the commissioner of the department of health and human services during a public health emergency; authorizes the joint legislative oversight committee on health and human services to review, and rescind by a 2/3 vote, emergency orders issued by the commissioner; gives a person subject to a treatment order for a communicable disease a right to a hearing on the order; and amends the membership and duties of the ethics oversight advisory committee. The bill also amends the house membership on the health and human services oversight committee.

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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21-0173
04/05

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to the emergency powers of the commissioner of health and human services and relative to the membership of the oversight committee on health and human services.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Department of Safety; Public Health Emergency Management Powers. Amend RSA 21-P:53 to read as follows:

21-P:53 Public Health Powers and Duties. During the existence of a state of emergency under this chapter, the commissioner of health and human services shall have the following powers and duties, subject to the direction and control of the governor, which are in addition to those set forth in RSA 141-C; provided that such powers and duties shall be limited to the specific nature of the emergency, its geographic limits, and the conditions that brought it about, as specified in the declaration of the state of emergency:

I. The commissioner shall have the responsibility and authority to carry out all public health activities within the state in cooperation and collaboration with the division of homeland security and emergency management.

II. The commissioner may, without the approval of the [~~governor's~~] ***executive*** council or the legislative fiscal committee, and notwithstanding the provisions of RSA 4:45, 9:13-d, and 9:19, [~~and any other law to the contrary,~~] purchase and distribute anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents that the commissioner deems to be in the interest of public health.

III. If there is a statewide or regional shortage or threatened shortage of any anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents, the commissioner may control, [~~restrict~~] ***prioritize***, and ration the use, sale, dispensing, distribution, or transportation of such products as necessary to best protect the health, safety, and welfare of the people of this state. In making rationing or other supply and distribution decisions, the commissioner shall determine high risk or critical need groups that shall receive priority for such products.

III-a. The commissioner shall have no power to restrict the ability of a licensed practitioner to prescribe pursuant to RSA 329 and RSA 326-B.

III-b. If during a public health emergency, a treatment or vaccination should become available which is anticipated to be in limited supply, the commissioner shall develop, in consultation with the ethics oversight advisory committee, established in RSA 141-C:27, a plan for its distribution.

IV. The commissioner may investigate any incident or imminent threat of any disease or health condition that may be caused by a natural disaster, radiation or chemical exposure, or the release of any microorganism, infectious substance, or naturally occurring or manufactured biological product, that poses a risk of a significant number of human fatalities or incidents of permanent or long-term disability. Such investigations may include requiring information from any health care provider or other person affected by, or having information related to, the incident or threat, inspections of buildings and conveyances and their contents, laboratory analysis of samples collected during the course of such inspections, and requiring a physical examination and the provision of specimens of body secretions, excretions, fluids, and discharges for laboratory examination of any person having a disease or health condition that necessitates an investigation under this paragraph.

V. The commissioner may order a person to undergo such medical care as may be necessary to treat or prevent an incident or threat of disease or other health condition prompting an investigation pursuant to paragraph IV. Such care may include immunization of individuals as necessary to prevent the spread of contagious disease, except that an individual may refuse treatment or immunization pursuant to the provisions of [~~RSA 141-C:15, VI~~] ***RSA 141-C:16 and RSA 141-C:20-c.***

VI. Any order compelling an investigation, physical examination, the provision of specimens, medical treatment or care, or immunization, and any other order of the commissioner under this chapter, shall be subject to the due process requirements of RSA 141-C:14-a.

VII. The department of health and human services shall acquire and retain only the minimum amount of information, specimens, and samples relating to individuals necessary to carry out its obligations under this section. Any genetic testing of specimens and samples shall be limited to the viruses, bacteria, fungi, or other microorganisms therein. Personally identifiable information shall not be acquired or retained unless necessary for the department to carry out its responsibilities under this section, RSA 141-C, or any other provision of law. Such information shall not be retained beyond the duration of the state of emergency without the approval of the governor and executive council, which information shall be subject to the confidentiality provisions of RSA 141-C:10.

VIII. Except as provided in paragraph IX, an emergency order issued under this section shall be subject to review by the joint legislative oversight committee on health and human services, established in RSA 126-A:13. The committee may vote to sponsor a joint resolution rescinding the emergency order pursuant to RSA 21-P:53 X. The commissioner shall notify the ethics oversight advisory committee established in RSA 141-C:27 of any emergency order issued under this section, and the joint legislative oversight committee shall consider the input of the ethics committee, if provided, in any decision. If the emergency precludes either committee from meeting in person, they shall be authorized, notwithstanding any other provision of law, to meet remotely for this purpose.

IX. An emergency order issued under paragraph V or VI shall be subject to legislative oversight by the ethics oversight advisory committee pursuant to RSA 141-C:27, II(b).

X. If the committee votes to sponsor a joint resolution pursuant to subparagraph VIII, the joint resolution shall be introduced in the house of representatives or senate within 20 business days of such vote when the general court is in session and 20 business days of the start of the following legislative session if such vote occurs when the general court is not in session. If a joint resolution is introduced within this time frame, the commissioner shall be prevented from enforcing such emergency order until final legislative action is taken on the resolution or the passage of 90 consecutive calendar days during which the general court shall have been in session, whichever occurs first. The 90 calendar day period shall commence on the date such joint resolution has been introduced. If the session of the general court adjourns prior to the sixtieth calendar day after such joint resolution has been introduced, then the commissioner shall be prevented from enforcing such emergency order until 90 calendar days, beginning with the next session of the general court, have passed.

2 Communicable Disease; Ethics Committee. Amend RSA 141-C:27 to read as follows:

141-C:27 Ethics ***Oversight Advisory*** Committee.

I. There is hereby established an ethics ***oversight advisory*** committee to offer advice to the commissioner relative to the ethical issues that may be identified in the course of planning for, and responding to, outbreaks of communicable disease that threaten to become epidemic or pandemic ***and to review and provide recommendations for investigations, orders, and treatment ordered by the commissioner.***

II. The committee shall*:*

(a) Consider the ethical implications of any of the powers that may be exercised by the commissioner under the provisions of this chapter including, but not limited to, the confiscation, distribution, and rationing of anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents, and mechanical equipment; the issuance and enforcement of orders of isolation, quarantine, medical examination, and medical treatment; issues relative to information sharing and confidentiality; and the provisions for due process for orders issued pursuant to this chapter.

(b) Review, at least annually, a report of investigations conducted pursuant to RSA 141-C:9 and orders issued under RSA 21-P:53, V and VI, and provide recommendations to the department. Any information furnished to the committee shall be aggregated and de-identified. The department shall not share any confidential information with the committee.

(c) Consider the competing rights of disabled persons who might be unable to comply with certain orders, health care workers who are entitled to a safe workplace, and

the need to protect the public from communicable disease, and may recommend modification of orders to address specific concerns.

(d) Consider both the need to protect the most vulnerable members of society as well as the need for the most efficacious means to control a public health emergency when consulting with the commissioner pursuant to RSA 21-P:53, III-b in developing a plan for the distribution of a new treatment or vaccination.

III. The members of the committee shall be as follows:

(a) ***Two members of the house or representatives, one of whom shall be from the minority party, appointed by the speaker of the house of representatives.***

(b) One member of the senate, appointed by the senate president.

(c) The director of the ***department of health and human services,*** division of public health services.

[~~(b)~~] ***(d)*** The state epidemiologist.

[~~(c)~~] ***(e)*** The attorney general, or designee.

[~~(d)~~] ***(f)*** A representative of a public health network, appointed by the commissioner.

[~~(e)~~] ***(g)*** A representative from a college or university public health program, appointed by the commissioner.

[~~(f)~~] ***(h)*** A chief of police or a police officer of a local police department, appointed by the New Hampshire Association of Chiefs of Police.

[~~(g)~~] ***(i)*** A chief of a local fire department, appointed by the New Hampshire Association of Fire Chiefs.

[~~(h)~~] ***(j)*** A physician, licensed under RSA 329, appointed by the New Hampshire Medical Society.

[~~(i)~~] ***(k)*** The commissioner of the department of safety, or designee.

[~~(j)~~] ***(l)*** A member of a fire department with a minimum of EMT-B certification, appointed by the Professional Firefighters of New Hampshire.

[~~(k)~~]***(m)*** A representative of a hospital, appointed by the New Hampshire Hospital Association.

[~~(l) A county representative, appointed by the New Hampshire Association of Counties.~~]

(n) The commissioner of the department of labor, or designee.

(o) A representative of the Disability Rights Center of New Hampshire, appointed by the center.

IV. [~~The commissioner shall appoint a member of the committee to act as chairperson.~~] ***The committee shall elect one of the legislative members as chairperson. Legislative members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.*** The committee shall meet initially within 30 days of the effective date of this section and then as regularly as the chairperson shall direct.

V. The commissioner may at any time direct questions to the committee or request guidance on ethical issues.

VI. The committee [~~shall be solely advisory in nature and any guidance, guidelines, or protocols issued by the committee shall not be binding on the commissioner~~] ***may provide advisory opinions, including draft guidance, guidelines, or protocols, which shall not be binding on the commissioner or any member of the public.***

3 Department of Health and Human Services; Oversight Committee. Amend RSA 126-A:13, I to read as follows:

I. There shall be an oversight committee on health and human services consisting of [~~5~~] ***the following*** members [~~as follows~~]:

(a) Two members of the senate, at least one of whom shall be a member of the senate health and human services committee and one of whom shall be a member of the senate finance committee, appointed by the president of the senate[~~; and~~].

(b)***(1)*** [~~Three~~] ***Five*** members of the house of representatives, [~~2~~] ***3*** of whom shall be from the health, human services and elderly affairs committee, and one of whom shall be from the house finance committee ***division responsible for the department of health and human services,*** appointed by the speaker of the house of representatives.

(2) Two members of the house of representatives, one of whom shall be appointed by the speaker of the house of representatives, and one of whom shall be appointed by the leader of the minority party of the house of representatives, shall be available to serve, at the request of the committee chairperson, as an alternate member for an absent committee member. An alternate member shall have full voting authority while serving for an absent committee member.

4 Effective Date. This act shall take effect upon its passage.

HB 187 - AS AMENDED BY THE SENATE

24Feb2021... 0161h
7Apr2021... 0952h
05/20/2021 1444s

2021 SESSION

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HOUSE BILL *187*

AN ACT relative to the emergency powers of the commissioner of health and human services and relative to the membership of the oversight committee on health and human services.

SPONSORS: Rep. Marsh, Carr. 8; Rep. Lang, Belk. 4; Rep. Baldasaro, Rock. 5; Rep. Edwards, Rock. 4; Rep. Craig, Coos 4; Rep. Prout, Hills. 37; Rep. J. Osborne, Rock. 4; Rep. Salloway, Straf. 5; Rep. Blasek, Hills. 21

COMMITTEE: Health, Human Services and Elderly Affairs

AMENDED ANALYSIS

This bill makes various changes to the powers of the commissioner of the department of health and human services during a public health emergency; authorizes the joint legislative oversight committee on health and human services to review, and rescind by a 2/3 vote, emergency orders issued by the commissioner; gives a person subject to a treatment order for a communicable disease a right to a hearing on the order; and amends the membership and duties of the ethics oversight advisory committee. The bill also amends the membership on the health and human services oversight committee.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

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Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Department of Safety; Public Health Emergency Management Powers. Amend RSA 21-P:53 to read as follows:

21-P:53 Public Health Powers and Duties. During the existence of a state of emergency under this chapter, the commissioner of health and human services shall have the following powers and duties, subject to the direction and control of the governor, which are in addition to those set forth in RSA 141-C; provided that such powers and duties shall be limited to the specific nature of the emergency, its geographic limits, and the conditions that brought it about, as specified in the declaration of the state of emergency:

I. The commissioner shall have the responsibility and authority to carry out all public health activities within the state in cooperation and collaboration with the division of homeland security and emergency management.

II. The commissioner may, without the approval of the [~~governor's~~] ***executive*** council or the legislative fiscal committee, and notwithstanding the provisions of RSA 4:45, 9:13-d, and 9:19, [~~and any other law to the contrary,~~] purchase and distribute anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents that the commissioner deems to be in the interest of public health.

III. If there is a statewide or regional shortage or threatened shortage of any anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents, the commissioner may control, [~~restrict~~] ***prioritize***, and ration the use, sale, dispensing, distribution, or transportation of such products as necessary to best protect the health, safety, and welfare of the people of this state. In making rationing or other supply and distribution decisions, the commissioner shall determine high risk or critical need groups that shall receive priority for such products.

III-a. The commissioner shall have no power to restrict the ability of a licensed practitioner to prescribe pursuant to RSA 329 and RSA 326-B.

III-b. If during a public health emergency, a treatment or vaccination becomes available which is anticipated to be in limited supply, the commissioner shall develop, in

consultation with the ethics oversight advisory committee, established in RSA 141-C:27, a plan for its distribution.

IV. The commissioner may investigate any incident or imminent threat of any disease or health condition that may be caused by a natural disaster, radiation or chemical exposure, or the release of any microorganism, infectious substance, or naturally occurring or manufactured biological product, that poses a risk of a significant number of human fatalities or incidents of permanent or long-term disability. Such investigations may include requiring information from any health care provider or other person affected by, or having information related to, the incident or threat, inspections of buildings and conveyances and their contents, laboratory analysis of samples collected during the course of such inspections, and requiring a physical examination and the provision of specimens of body secretions, excretions, fluids, and discharges for laboratory examination of any person having a disease or health condition that necessitates an investigation under this paragraph.

V. The commissioner may order a person to undergo such medical care as may be necessary to treat or prevent an incident or threat of disease or other health condition prompting an investigation pursuant to paragraph IV. Such care may include immunization of individuals as necessary to prevent the spread of contagious disease, except that an individual may refuse treatment or immunization pursuant to the provisions of [~~RSA 141-C:15, VI~~] ***RSA 141-C:16 and RSA 141-C:20-c.***

VI. Any order compelling an investigation, physical examination, the provision of specimens, medical treatment or care, or immunization, and any other order of the commissioner under this chapter, shall be subject to the due process requirements of RSA 141-C:14-a.

VII. The department of health and human services shall acquire and retain only the minimum amount of information, specimens, and samples relating to individuals necessary to carry out its obligations under this section. Any genetic testing of specimens and samples shall be limited to the viruses, bacteria, fungi, or other microorganisms therein. Personally identifiable information shall not be acquired or retained unless necessary for the department to carry out its responsibilities under this section, RSA 141-C, or any other provision of law. Such information shall not be retained beyond the duration of the state of emergency without the approval of the governor and executive council, which information shall be subject to the confidentiality provisions of RSA 141-C:10.

VIII. Except as provided in paragraph IX, an emergency order issued under this section shall be subject to review by the joint legislative oversight committee on health and human services, established in RSA 126-A:13. The commissioner shall notify the ethics oversight advisory committee established in RSA 141-C:27 of any emergency order issued under this section, and the joint legislative oversight committee shall consider the input of the ethics committee, if provided, in any decision. If the emergency precludes either

committee from meeting in person, they shall be authorized, notwithstanding any other provision of law, to meet remotely for this purpose.

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2 Communicable Disease; Ethics Committee. Amend RSA 141-C:27 to read as follows:

141-C:27 Ethics *Oversight Advisory* Committee.

I. There is hereby established an ethics *oversight advisory* committee to offer advice to the commissioner relative to the ethical issues that may be identified in the course of planning for, and responding to, outbreaks of communicable disease that threaten to become epidemic or pandemic *and to review and provide recommendations for investigations, orders, and treatment ordered by the commissioner.*

II. The committee shall:

(a) Consider the ethical implications of any of the powers that may be exercised by the commissioner under the provisions of this chapter including, but not limited to, the confiscation, distribution, and rationing of anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents, and mechanical equipment; the issuance and enforcement of orders of isolation, quarantine, medical examination, and medical treatment; issues relative to information sharing and confidentiality; and the provisions for due process for orders issued pursuant to this chapter.

(b) Review, at least annually, a report of investigations conducted pursuant to RSA 141-C:9 and orders issued under RSA 21-P:53, V and VI, and provide recommendations to the department. Any information furnished to the committee shall be aggregated and de-identified. The department shall not share any confidential information with the committee.

(c) Consider the competing rights of disabled persons who might be unable to comply with certain orders, health care workers who are entitled to a safe workplace, and the need to protect the public from communicable disease, and may recommend modification of orders to address specific concerns.

(d) Consider both the need to protect the most vulnerable members of society as well as the need for the most efficacious means to control a public health emergency when consulting with the commissioner pursuant to RSA 21-P:53, III-b in developing a plan for the distribution of a new treatment or vaccination.

III. The members of the committee shall be as follows:

(a) *Two members of the house or representatives, one of whom shall be from the minority party, appointed by the speaker of the house of representatives.*

(b) One member of the senate, appointed by the senate president.

(c) The director of the ***department of health and human services,*** division of public health services.

[~~(b)~~] ***(d)*** The state epidemiologist.

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[~~(e)~~] ***(g)*** A representative from a college or university public health program, appointed by the commissioner.

[~~(f)~~] ***(h)*** A chief of police or a police officer of a local police department, appointed by the New Hampshire Association of Chiefs of Police.

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[~~(l) A county representative, appointed by the New Hampshire Association of Counties.~~]

(n) The commissioner of the department of labor, or designee.

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IV. [~~The commissioner shall appoint a member of the committee to act as chairperson.~~] ***The committee shall elect one of the legislative members as chairperson. Legislative members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.*** The committee shall meet initially within 30 days of the effective date of this section and then as regularly as the chairperson shall direct.

V. The commissioner may at any time direct questions to the committee or request guidance on ethical issues.

VI. The committee [~~shall be solely advisory in nature and any guidance, guidelines, or protocols issued by the committee shall not be binding on the commissioner~~] ***may provide advisory opinions, including draft guidance, guidelines, or protocols, which shall not be binding on the commissioner or any member of the public.***

3 Department of Health and Human Services; Oversight Committee. Amend RSA 126-A:13, I to read as follows:

I. There shall be an oversight committee on health and human services consisting of [~~5~~] ***the following*** members [~~as follows~~]:

(a) [~~Two~~] ***Three*** members of the senate, at least one of whom shall be a member of the senate health and human services committee and one of whom shall be a member of the senate finance committee, appointed by the president of the senate[~~; and~~].

(b)***(1)*** [~~Three~~] ***Five*** members of the house of representatives, [~~2~~] ***3*** of whom shall be from the health, human services and elderly affairs committee, and one of whom shall be from the house finance committee ***division responsible for the department of health and human services***, appointed by the speaker of the house of representatives.

(2) Two members of the house of representatives, one of whom shall be appointed by the speaker of the house of representatives, and one of whom shall be appointed by the leader of the minority party of the house of representatives, shall be available to serve, at the request of the committee chairperson, as an alternate member for an absent committee member. An alternate member shall have full voting authority while serving for an absent committee member.

4 Effective Date. This act shall take effect upon its passage.

CHAPTER 211
HB 187 - FINAL VERSION

24Feb2021... 0161h
7Apr2021... 0952h
05/20/2021 1444s
24Jun2021... 2036CofC

2021 SESSION

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COMMITTEE: Health, Human Services and Elderly Affairs

AMENDED ANALYSIS

This bill makes various changes to the powers of the commissioner of the department of health and human services during a public health emergency; authorizes the legislature to review, and rescind by a 2/3 vote, emergency orders issued by the commissioner; gives a person subject to a treatment order for a communicable disease a right to a hearing on the order; and amends the membership and duties of the ethics oversight advisory committee. The bill also amends the membership on the health and human services oversight committee.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to the emergency powers of the commissioner of health and human services and relative to the membership of the oversight committee on health and human services.

Be it Enacted by the Senate and House of Representatives in General Court convened:

211:1 Department of Safety; Public Health Emergency Management Powers. Amend RSA 21-P:53 to read as follows:

21-P:53 Public Health Powers and Duties. During the existence of a state of emergency under this chapter, the commissioner of health and human services shall have the following powers and duties, subject to the direction and control of the governor, which are in addition to those set forth in RSA 141-C; provided that such powers and duties shall be limited to the specific nature of the emergency, its geographic limits, and the conditions that brought it about, as specified in the declaration of the state of emergency:

I. The commissioner shall have the responsibility and authority to carry out all public health activities within the state in cooperation and collaboration with the division of homeland security and emergency management.

II. The commissioner may, without the approval of the [~~governor's~~] ***executive*** council or the legislative fiscal committee, and notwithstanding the provisions of RSA 4:45, 9:13-d, and 9:19, [~~and any other law to the contrary,~~] purchase and distribute anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents that the commissioner deems to be in the interest of public health.

III. If there is a statewide or regional shortage or threatened shortage of any anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents, the commissioner may control, [~~restrict~~] ***prioritize***, and ration the use, sale, dispensing, distribution, or transportation of such products as necessary to best protect the health, safety, and welfare of the people of this state. In making rationing or other supply and distribution decisions, the commissioner shall determine high risk or critical need groups that shall receive priority for such products.

III-a. The commissioner shall have no power to restrict the ability of a licensed practitioner to prescribe pursuant to RSA 329 and RSA 326-B.

III-b. If during a public health emergency, a treatment or vaccination becomes available which is anticipated to be in limited supply, the commissioner shall develop, in

consultation with the ethics oversight advisory committee, established in RSA 141-C:27, a plan for its distribution.

IV. The commissioner may investigate any incident or imminent threat of any disease or health condition that may be caused by a natural disaster, radiation or chemical exposure, or the release of any microorganism, infectious substance, or naturally occurring or manufactured biological product, that poses a risk of a significant number of human fatalities or incidents of permanent or long-term disability. Such investigations may include requiring information from any health care provider or other person affected by, or having information related to, the incident or threat, inspections of buildings and conveyances and their contents, laboratory analysis of samples collected during the course of such inspections, and requiring a physical examination and the provision of specimens of body secretions, excretions, fluids, and discharges for laboratory examination of any person having a disease or health condition that necessitates an investigation under this paragraph.

V. The commissioner may order a person to undergo such medical care as may be necessary to treat or prevent an incident or threat of disease or other health condition prompting an investigation pursuant to paragraph IV. Such care may include immunization of individuals as necessary to prevent the spread of contagious disease, except that an individual may refuse treatment or immunization pursuant to the provisions of [~~RSA 141-C:15, VI~~] ***RSA 141-C:16 and RSA 141-C:20-c.***

VI. Any order compelling an investigation, physical examination, the provision of specimens, medical treatment or care, or immunization, and any other order of the commissioner under this chapter, shall be subject to the due process requirements of RSA 141-C:14-a.

VII. The department of health and human services shall acquire and retain only the minimum amount of information, specimens, and samples relating to individuals necessary to carry out its obligations under this section. Any genetic testing of specimens and samples shall be limited to the viruses, bacteria, fungi, or other microorganisms therein. Personally identifiable information shall not be acquired or retained unless necessary for the department to carry out its responsibilities under this section, RSA 141-C, or any other provision of law. Such information shall not be retained beyond the duration of the state of emergency without the approval of the governor and executive council, which information shall be subject to the confidentiality provisions of RSA 141-C:10.

VIII. As soon as practicable, the commissioner shall notify the speaker of the house of representatives, the senate president, the chair of the house committee on health, human services and elderly affairs and the chair of the senate committee on health and human services of the impending issuance of emergency orders under this section and provide a description of such orders.

IX. The legislature may terminate an emergency order issued under this chapter by a majority vote of both the senate and the house of representatives. A majority vote shall

consist of a majority of members present and voting in each chamber acting separately. The commissioner's power to renew an emergency order under this chapter shall terminate upon a majority vote of both chambers under this section; provided, however, that such vote shall not preclude the commissioner from issuing a new emergency order during the state of emergency for different circumstances.

211:2 Communicable Disease; Ethics Committee. Amend RSA 141-C:27 to read as follows:

141-C:27 Ethics ***Oversight Advisory*** Committee.

I. There is hereby established an ethics ***oversight advisory*** committee to offer advice to the commissioner relative to the ethical issues that may be identified in the course of planning for, and responding to, outbreaks of communicable disease that threaten to become epidemic or pandemic ***and to review and provide recommendations for investigations, orders, and treatment ordered by the commissioner.***

II. The committee shall:

(a) Consider the ethical implications of any of the powers that may be exercised by the commissioner under the provisions of this chapter including, but not limited to, the confiscation, distribution, and rationing of anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents, and mechanical equipment; the issuance and enforcement of orders of isolation, quarantine, medical examination, and medical treatment; issues relative to information sharing and confidentiality; and the provisions for due process for orders issued pursuant to this chapter.

(b) Review, at least annually, a report of investigations conducted pursuant to RSA 141-C:9 and orders issued under RSA 21-P:53, V and VI, and provide recommendations to the department. Any information furnished to the committee shall be aggregated and de-identified. The department shall not share any confidential information with the committee.

(c) Consider the competing rights of disabled persons who might be unable to comply with certain orders, health care workers who are entitled to a safe workplace, and the need to protect the public from communicable disease, and may recommend modification of orders to address specific concerns.

(d) Consider both the need to protect the most vulnerable members of society as well as the need for the most efficacious means to control a public health emergency when consulting with the commissioner pursuant to RSA 21-P:53, III-b in developing a plan for the distribution of a new treatment or vaccination.

III. The members of the committee shall be as follows:

(a) ***Two members of the house or representatives, one of whom shall be from the minority party, appointed by the speaker of the house of representatives.***

(b) One member of the senate, appointed by the senate president.

(c) The director of the ***department of health and human services,*** division of public health services.

[~~(b)~~] ***(d)*** The state epidemiologist.

[~~(c)~~] ***(e)*** The attorney general, or designee.

[~~(d)~~] ***(f)*** A representative of a public health network, appointed by the commissioner.

[~~(e)~~] ***(g)*** A representative from a college or university public health program, appointed by the commissioner.

[~~(f)~~] ***(h)*** A chief of police or a police officer of a local police department, appointed by the New Hampshire Association of Chiefs of Police.

[~~(g)~~] ***(i)*** A chief of a local fire department, appointed by the New Hampshire Association of Fire Chiefs.

[~~(h)~~] ***(j)*** A physician, licensed under RSA 329, appointed by the New Hampshire Medical Society.

[~~(i)~~] ***(k)*** The commissioner of the department of safety, or designee.

[~~(j)~~] ***(l)*** A member of a fire department with a minimum of EMT-B certification, appointed by the Professional Firefighters of New Hampshire.

[~~(k)~~]***(m)*** A representative of a hospital, appointed by the New Hampshire Hospital Association.

[~~(l) A county representative, appointed by the New Hampshire Association of Counties.~~]

(n) The commissioner of the department of labor, or designee.

(o) A representative of the Disability Rights Center of New Hampshire, appointed by the center.

IV. [~~The commissioner shall appoint a member of the committee to act as chairperson.~~] ***The committee shall elect one of the legislative members as chairperson. Legislative members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.*** The committee shall meet initially within 30 days of the effective date of this section and then as regularly as the chairperson shall direct.

V. The commissioner may at any time direct questions to the committee or request guidance on ethical issues.

VI. The committee [~~shall be solely advisory in nature and any guidance, guidelines, or protocols issued by the committee shall not be binding on the commissioner~~] ***may provide advisory opinions, including draft guidance, guidelines, or protocols, which shall not be binding on the commissioner or any member of the public.***

211:3 Department of Health and Human Services; Oversight Committee. Amend RSA 126-A:13, I to read as follows:

I. There shall be an oversight committee on health and human services consisting of [~~5~~] ***the following*** members [~~as follows~~]:

(a) [~~Two~~] ***Three*** members of the senate, at least one of whom shall be a member of the senate health and human services committee and one of whom shall be a member of the senate finance committee, appointed by the president of the senate[~~; and~~].

(b)***(1)*** [~~Three~~] ***Five*** members of the house of representatives, [~~2~~] ***3*** of whom shall be from the health, human services and elderly affairs committee, and one of whom shall be from the house finance committee ***division responsible for the department of health and human services,*** appointed by the speaker of the house of representatives.

(2) Two members of the house of representatives, one of whom shall be appointed by the speaker of the house of representatives, and one of whom shall be appointed by the leader of the minority party of the house of representatives, shall be available to serve, at the request of the committee chairperson, as an alternate member for an absent committee member. An alternate member shall have full voting authority while serving for an absent committee member.

211:4 Effective Date. This act shall take effect upon its passage.

Approved: Enacted in accordance with Part II, Article 44 of the N.H. Constitution, without the signature of the Governor, August 11, 2021
Effective Date: August 11, 2021

Amendments

Sen. Bradley, Dist 3
Sen. Whitley, Dist 15
Sen. Gray, Dist 6
Sen. Sherman, Dist 24
Sen. Avard, Dist 12
April 29, 2021
2021-1242s
04/10

Amendment to HB 187

Amend the title of the bill by replacing it with the following:

AN ACT relative to the emergency powers of the commissioner of health and human services, relative to membership of the oversight committee on health and human services, and establishing a license and requirements for licensed social workers.

Amend the bill by replacing all after section 3 with the following:

4 Mental Health Practice; Fees. Amend RSA 330-A:12, I to read as follows:

I. The board shall establish fees pursuant to RSA 541-A for supervisory agreements; applications for licensed pastoral psychotherapist, independent clinical social worker, school social worker, ***licensed social worker, licensed social worker associate,*** clinical mental health counselor, and marriage and family therapist ***and conditional licenses***; renewal of license; renewal of dual license; reinstatement of license; inactive license status; reactivation of an inactive license; examination of applicants; transcribing and transferring records; and other services, including investigations and hearings conducted under this chapter.

5 New Sections; Mental Health Practice; Licensed Social Worker. Amend RSA 330-A by inserting after section 18-a the following new sections:

330-A:18-b Licensed Social Workers; Initial License.

I. An applicant for an initial license as a licensed social worker shall comply with the following requirements:

(a) Graduate with a bachelor's degree in social work from a college or university approved by the Council on Social Work Education.

(b) Complete 300 hours of social work or mental health education within the degree-granting program or separately.

(c) Complete 4,000 hours of supervised work experience.

(d) Complete 300 hours of supervised practical training within the degree-granting program, as part of the supervised work experience or separately.

(e) Pass a national proctored examination approved by the board.

(f) Meet other criteria as established by the board.

AMENDED

II. The scope of practice of a licensed social worker shall be the screening, assessment, treatment planning, and treatment of mental health conditions as defined in this section as follows:

(a) The performance of clinical evaluation including the screening and assessment of mental health disorders, the assessment and identification of symptoms of co-occurring mental health disorders and differential diagnosis indicators, and the development of preliminary mental health disorder diagnoses for further assessment and confirmation by an appropriate professional. This includes severity assessment and assessment of dangerousness to self or others.

(b) The performance of treatment planning and case management referrals including co-occurring substance use disorders and medical conditions, case management and service coordination including implementation of treatment plans, consultation, coordination of care with mental health, substance use treatment and other community providers, ongoing assessment of progress and needs, and client advocacy, education, and documentation.

(c) The performance of counseling, including:

(1) Individual, group, family, and significant other counseling; and

(2) Crisis prevention and intervention to include enlisting the support of trained personnel to manage risk of harm to self or others.

(d) Adherence to professional and ethical responsibilities as determined by the board.

III. During the first 2 years of licensure, a licensed social worker may engage in practice only under clinical supervision of a licensed clinical social worker, a licensed mental health counselor, a master licensed drug and alcohol counselor, a psychiatric APRN, or a licensed mental health provider approved by the board.

330-A:18-c Licensed Social Work Associate: Initial License.

I. An applicant for an initial license as a licensed social work associate shall comply with the following requirements:

(a)(1) Graduate with a bachelor's degree in clinical mental health, social work, psychology, behavioral health counseling, human services discipline, or equivalent program from an accredited college or university.

(2) Complete 300 hours of social work or mental health education within the degree-granting program or separately.

(3) Complete 4,000 hours of supervised work experience.

(4) Complete 300 hours of supervised practical training within the degree-granting program, as part of the supervised work experience or separately.

(5) Pass a national proctored examination approved by the board.

(6) Meet other criteria as established by the board; or

(b)(1) Graduate with an associate's degree in clinical mental health, social work, psychology, behavioral health counseling, human services discipline, or equivalent program.

(2) Complete 300 hours of social work or mental health education within the degree-granting program or separately.

(3) Complete 6,000 hours of supervised work experience.

(4) Complete 300 hours of supervised practical training within the degree-granting program, as part of the supervised work experience or separately.

(5) Pass a national proctored examination approved by the board.

(6) Meet other criteria as established by the board.

II. The scope of practice of a licensed social work associate shall be the screening, assessment, treatment planning, and treatment of mental health conditions under clinical supervision as defined in this section as follows:

(a) The performance of clinical evaluation including the screening and assessment of mental health disorders, the assessment and identification of symptoms of co-occurring mental health disorders and differential diagnosis indicators, and the development of preliminary mental health disorder diagnoses for further assessment and confirmation by an appropriate professional. This includes severity assessment and assessment of dangerousness to self or others.

(b) The performance of treatment planning and case management referrals including co-occurring substance use disorders and medical conditions, case management and service coordination including implementation of treatment plans, consultation, coordination of care with mental health, substance use treatment and other community providers, ongoing assessment of progress and needs, and client advocacy, education, and documentation.

(c) The performance of counseling, including:

(1) Individual, group, family, and significant other counseling; and

(2) Crisis prevention and intervention to include enlisting the support of trained personnel to manage risk of harm to self or others.

(d) Adherence to professional and ethical responsibilities as determined by the board.

III. A licensed social work associate may engage in practice only under clinical supervision of a licensed clinical social worker, a licensed mental health counselor, a master licensed drug and alcohol counselor, a psychiatric APRN, or a licensed mental health provider approved by the board.

330-A:18-d Social Work; Conditional License.

I. Applicants for licensure under this section may apply to the board for conditional licensure. To receive a conditional license, applicants shall comply with the following requirements:

(a) Clinical Social Worker:

(1) Hold a master's or doctoral degree in social work or social welfare from a CSWE approved program.

(2) Obtain a board approved supervisory agreement, with documented intent to pursue licensure as a clinical social worker under this chapter.

(3) Meet other criteria as reasonably established by the board.

(b) Licensed Social Worker:

(1) Hold a bachelor's degree in social work or social welfare from a CSWE approved program.

(2) Obtain a board approved supervisory agreement, with documented intent to pursue licensure as a licensed social worker under this chapter.

(3) Meet other criteria as reasonably established by the board.

(c) Licensed Social Work Associate:

(1) Hold an associate's or bachelor's degree in clinical mental health, social work, psychology, behavioral health counseling, human services discipline, or equivalent program from an accredited college or university.

(2) Complete 300 hours of social work or mental health education within the degree-granting program or separately.

(3) Complete 300 hours of supervised practical training within the degree-granting program, as part of the supervised work experience or separately.

(4) Obtain a board approved supervisory agreement, with documented intent to pursue licensure as a licensed social work associate under this chapter.

(5) Meet other criteria as reasonably established by the board.

II. Conditional licenses issued under this section shall be valid for a period of 2 years from the date of issuance. Applicants in good standing with the board may apply for a one-time renewal of a conditional license.

6 Mental Health Practice; Unlawful Practice. Amend RSA 330-A:23, I-II to read as follows:

I. Except as provided in RSA 330-A:34, it shall be unlawful for any person to be engaged in mental health practice unless that person is licensed by the board, working as a candidate under the direct supervision of a person licensed by the board, ***conditionally licensed by the board,*** or engaged in the practice of other mental health services as an alternative provider as defined in RSA 330-A:2, I. The license or the registration of such person shall be current and valid. It shall be unlawful for any person to practice as or to refer to oneself as a pastoral psychotherapist, a clinical social worker, ***a licensed social worker, a licensed social work associate,*** a clinical mental health counselor, or a marriage and family therapist, or use the word "psychotherapist," or any variation thereof, in such person's title unless that person is licensed ***or conditionally licensed*** by the board or working as a candidate under the direct supervision of a person licensed by the board. Psychiatrists licensed under RSA 329 and psychiatric nurse practitioners licensed under RSA 326-B:18 may refer to themselves as psychotherapists.

II. Except as otherwise provided in this chapter, any person who violates paragraph I or paragraph III of this section or who violates any of the other provisions of this chapter relating to pastoral psychotherapy, clinical social work, ***licensed social work,*** clinical mental health counseling, or marriage and family therapy, or, having had his or her license suspended or revoked,

shall continue to represent himself or herself as a licensed pastoral psychotherapist, clinical social worker, ***licensed social work, licensed social work associate,*** clinical mental health counselor, or marriage and family therapist, or as a psychotherapist, shall be guilty of a class A misdemeanor if a natural person, and a felony if any other person, and each violation shall be deemed a separate offense.

7 Managed Care Law; Definitions. Amend RSA 420-J:3, XVII to read as follows:

XVII. "Facility" means an institution providing health care services or a health care setting, including but not limited to hospitals and other licensed inpatient centers, ambulatory surgical or treatment centers, skilled nursing centers, residential treatment centers, ***community mental health programs as defined under RSA 135-C:7, community substance use disorder treatment programs as defined under RSA 172:2-c, community health centers,*** diagnostic, laboratory and imaging centers, and rehabilitation and other therapeutic health settings.

8 New Section; Managed Care Law; Credentialing Verification Procedures. Amend RSA 420-J by inserting after section 4 the following new section:

420-J:4-a Facility Credentialing.

I. Health carriers shall, whenever possible, credential qualified entities as facilities when paneling and enrolling participating providers.

II. Nothing in this section shall be construed to require a health carrier to select or enroll a specific facility as a participating provider.

9 Effective Date.

I. Sections 4-6 of this act shall take effect 60 days after its passage.

II. The remainder of this act shall take effect upon its passage.

UNAPPROVED

2021-1242s

AMENDED ANALYSIS

This bill:

I. Makes various changes to the powers of the commissioner of the department of health and human services during a public health emergency.

II. Authorizes the joint legislative oversight committee on health and human services to review, and rescind by a 2/3 vote, emergency orders issued by the commissioner.

III. Gives a person subject to a treatment order for a communicable disease a right to a hearing on the order.

IV. Amends the membership and duties of the ethics oversight advisory committee.

V. Amends the house membership on the health and human services oversight committee.

VI. Establishes a license and requirements for licensed social workers.

UNAPPROVED

Sen. Bradley, Dist 3
May 11, 2021
2021-1394s
04/10

Amendment to HB 187

Amend the bill by replacing section 1 with the following:

1 Department of Safety; Public Health Emergency Management Powers. Amend RSA 21-P:53 to read as follows:

21-P:53 Public Health Powers and Duties. During the existence of a state of emergency under this chapter, the commissioner of health and human services shall have the following powers and duties, subject to the direction and control of the governor, which are in addition to those set forth in RSA 141-C; provided that such powers and duties shall be limited to the specific nature of the emergency, its geographic limits, and the conditions that brought it about, as specified in the declaration of the state of emergency:

I. The commissioner shall have the responsibility and authority to carry out all public health activities within the state in cooperation and collaboration with the division of homeland security and emergency management.

II. The commissioner may, without the approval of the [~~governor's~~] ***executive*** council or the legislative fiscal committee, and notwithstanding the provisions of RSA 4:45, 9:13-d, and 9:19, [~~and any other law to the contrary,~~] purchase and distribute anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents that the commissioner deems to be in the interest of public health.

III. If there is a statewide or regional shortage or threatened shortage of any anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents, the commissioner may control, [~~restrict~~] ***prioritize***, and ration the use, sale, dispensing, distribution, or transportation of such products as necessary to best protect the health, safety, and welfare of the people of this state. In making rationing or other supply and distribution decisions, the commissioner shall determine high risk or critical need groups that shall receive priority for such products.

III-a. The commissioner shall have no power to restrict the ability of a licensed practitioner to prescribe pursuant to RSA 329 and RSA 326-B.

III-b. If during a public health emergency, a treatment or vaccination becomes available which is anticipated to be in limited supply, the commissioner shall develop, in consultation with the ethics oversight advisory committee, established in RSA 141-C:27, a plan for its distribution.

AMENDED
ADOPTED

IV. The commissioner may investigate any incident or imminent threat of any disease or health condition that may be caused by a natural disaster, radiation or chemical exposure, or the release of any microorganism, infectious substance, or naturally occurring or manufactured biological product, that poses a risk of a significant number of human fatalities or incidents of permanent or long-term disability. Such investigations may include requiring information from any health care provider or other person affected by, or having information related to, the incident or threat, inspections of buildings and conveyances and their contents, laboratory analysis of samples collected during the course of such inspections, and requiring a physical examination and the provision of specimens of body secretions, excretions, fluids, and discharges for laboratory examination of any person having a disease or health condition that necessitates an investigation under this paragraph.

V. The commissioner may order a person to undergo such medical care as may be necessary to treat or prevent an incident or threat of disease or other health condition prompting an investigation pursuant to paragraph IV. Such care may include immunization of individuals as necessary to prevent the spread of contagious disease, except that an individual may refuse treatment or immunization pursuant to the provisions of [~~RSA 141-C:15, VI~~] ***RSA 141-C:16 and RSA 141-C:20-c.***

VI. Any order compelling an investigation, physical examination, the provision of specimens, medical treatment or care, or immunization, and any other order of the commissioner under this chapter, shall be subject to the due process requirements of RSA 141-C:14-a.

VII. The department of health and human services shall acquire and retain only the minimum amount of information, specimens, and samples relating to individuals necessary to carry out its obligations under this section. Any genetic testing of specimens and samples shall be limited to the viruses, bacteria, fungi, or other microorganisms therein. Personally identifiable information shall not be acquired or retained unless necessary for the department to carry out its responsibilities under this section, RSA 141-C, or any other provision of law. Such information shall not be retained beyond the duration of the state of emergency without the approval of the governor and executive council, which information shall be subject to the confidentiality provisions of RSA 141-C:10.

VIII. Except as provided in paragraph IX, an emergency order issued under this section shall be subject to review by the joint legislative oversight committee on health and human services, established in RSA 126-A:13. The commissioner shall notify the ethics oversight advisory committee established in RSA 141-C:27 of any emergency order issued under this section, and the joint legislative oversight committee shall consider the input of the ethics committee, if provided, in any decision. If the emergency precludes either committee from meeting in person, they shall be authorized, notwithstanding any other provision of law, to meet remotely for this purpose.

ADOPTED

IX. An emergency order issued under paragraph V or VI shall be subject to legislative oversight by the ethics oversight advisory committee pursuant to RSA 141-C:27, II(b).

UNAPPROVED

Health and Human Services
May 12, 2021
2021-1444s
04/06

Amendment to HB 187

Amend the bill by replacing section 1 with the following:

1 Department of Safety; Public Health Emergency Management Powers. Amend RSA 21-P:53 to read as follows:

21-P:53 Public Health Powers and Duties. During the existence of a state of emergency under this chapter, the commissioner of health and human services shall have the following powers and duties, subject to the direction and control of the governor, which are in addition to those set forth in RSA 141-C; provided that such powers and duties shall be limited to the specific nature of the emergency, its geographic limits, and the conditions that brought it about, as specified in the declaration of the state of emergency:

I. The commissioner shall have the responsibility and authority to carry out all public health activities within the state in cooperation and collaboration with the division of homeland security and emergency management.

II. The commissioner may, without the approval of the [~~governor's~~] ***executive*** council or the legislative fiscal committee, and notwithstanding the provisions of RSA 4:45, 9:13-d, and 9:19, [~~and any other law to the contrary,~~] purchase and distribute anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents that the commissioner deems to be in the interest of public health.

III. If there is a statewide or regional shortage or threatened shortage of any anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents, the commissioner may control, [~~restrict~~] ***prioritize***, and ration the use, sale, dispensing, distribution, or transportation of such products as necessary to best protect the health, safety, and welfare of the people of this state. In making rationing or other supply and distribution decisions, the commissioner shall determine high risk or critical need groups that shall receive priority for such products.

III-a. The commissioner shall have no power to restrict the ability of a licensed practitioner to prescribe pursuant to RSA 329 and RSA 326-B.

III-b. If during a public health emergency, a treatment or vaccination becomes available which is anticipated to be in limited supply, the commissioner shall develop, in consultation with the ethics oversight advisory committee, established in RSA 141-C:27, a plan for its distribution.

IV. The commissioner may investigate any incident or imminent threat of any disease or health condition that may be caused by a natural disaster, radiation or chemical exposure, or the release of any microorganism, infectious substance, or naturally occurring or manufactured biological product, that poses a risk of a significant number of human fatalities or incidents of permanent or long-term disability. Such investigations may include requiring information from any health care provider or other person affected by, or having information related to, the incident or threat, inspections of buildings and conveyances and their contents, laboratory analysis of samples collected during the course of such inspections, and requiring a physical examination and the provision of specimens of body secretions, excretions, fluids, and discharges for laboratory examination of any person having a disease or health condition that necessitates an investigation under this paragraph.

V. The commissioner may order a person to undergo such medical care as may be necessary to treat or prevent an incident or threat of disease or other health condition prompting an investigation pursuant to paragraph IV. Such care may include immunization of individuals as necessary to prevent the spread of contagious disease, except that an individual may refuse treatment or immunization pursuant to the provisions of [~~RSA 141-C:15, VI~~] ***RSA 141-C:16 and RSA 141-C:20-c.***

VI. Any order compelling an investigation, physical examination, the provision of specimens, medical treatment or care, or immunization, and any other order of the commissioner under this chapter, shall be subject to the due process requirements of RSA 141-C:14-a.

VII. The department of health and human services shall acquire and retain only the minimum amount of information, specimens, and samples relating to individuals necessary to carry out its obligations under this section. Any genetic testing of specimens and samples shall be limited to the viruses, bacteria, fungi, or other microorganisms therein. Personally identifiable information shall not be acquired or retained unless necessary for the department to carry out its responsibilities under this section, RSA 141-C, or any other provision of law. Such information shall not be retained beyond the duration of the state of emergency without the approval of the governor and executive council, which information shall be subject to the confidentiality provisions of RSA 141-C:10.

VIII. Except as provided in paragraph IX, an emergency order issued under this section shall be subject to review by the joint legislative oversight committee on health and human services, established in RSA 126-A:13. The commissioner shall notify the ethics oversight advisory committee established in RSA 141-C:27 of any emergency order issued under this section, and the joint legislative oversight committee shall consider the input of the ethics committee, if provided, in any decision. If the emergency precludes either committee from meeting in person, they shall be authorized, notwithstanding any other provision of law, to meet remotely for this purpose.

IX. An emergency order issued under paragraph V or VI shall be subject to legislative oversight by the ethics oversight advisory committee pursuant to RSA 141-C:27, II(b).

Amend RSA 126-A:13, I(a) as inserted by section 3 of the bill by replacing it with the following:

(a) [~~Two~~] ***Three*** members of the senate, at least one of whom shall be a member of the senate health and human services committee and one of whom shall be a member of the senate finance committee, appointed by the president of the senate[~~; and~~].

2021-1444s

AMENDED ANALYSIS

This bill makes various changes to the powers of the commissioner of the department of health and human services during a public health emergency; authorizes the joint legislative oversight committee on health and human services to review, and rescind by a 2/3 vote, emergency orders issued by the commissioner; gives a person subject to a treatment order for a communicable disease a right to a hearing on the order; and amends the membership and duties of the ethics oversight advisory committee. The bill also amends the membership on the health and human services oversight committee.

Committee Minutes

SENATE CALENDAR NOTICE
Health and Human Services

Sen Jeb Bradley, Chair
Sen James Gray, Vice Chair
Sen Kevin Avard, Member
Sen Tom Sherman, Member
Sen Rebecca Whitley, Member

Date: April 29, 2021

HEARINGS

Wednesday	05/05/2021
(Day)	(Date)

Health and Human Services	REMOTE 000	9:00 a.m.
(Name of Committee)	(Place)	(Time)

9:00 a.m.	**HB 143**	relative to an electronic prescription drug program.
9:15 a.m.	**HB 187**	relative to the emergency powers of the commissioner of health and human services and relative to the membership of the oversight committee on health and human services.
9:30 a.m.		Hearing on proposed Amendment #2021-1242s, relative to the emergency powers of the commissioner of health and human services, relative to membership of the oversight committee on health and human services, and establishing a license and requirements for licensed social workers, to **HB 187**, relative to the emergency powers of the commissioner of health and human services and relative to the membership of the oversight committee on health and human services.

Committee members will receive secure Zoom invitations via email.

Members of the public may attend using the following links:

1. Link to Zoom Webinar: https://www.zoom.us/j/92077528650
2. To listen via telephone: Dial(for higher quality, dial a number based on your current location):

1-301-715-8592, or 1-312-626-6799 or 1-929-205-6099, or 1-253-215-8782, or 1-346-248-7799, or 1-669-900-6833
3. Or iPhone one-tap: 13017158592,,92077528650# or 13126266799,,92077528650#
4. Webinar ID: 920 7752 8650
5. To view/listen to this hearing on YouTube, use this link:
https://www.youtube.com/channel/UCjBZdtrjRnQdmg-2MPMiWrA
6. To sign in to speak, register your position on a bill and/or submit testimony, use this link:
http://gencourt.state.nh.us/remotecommittee/senate.aspx

The following email will be monitored throughout the meeting by someone who can assist with and alert the committee to any technical issues: remotesenate@leg.state.nh.us or call (603-271-6931).

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

HB 143

Rep. Merchant

HB 187

Rep. Marsh	Rep. Lang	Rep. Baldasaro	Rep. Edwards
Rep. Craig	Rep. Prout	Rep. Osborne	Rep. Salloway
Rep. Blasek			

HB 187

Rep. Marsh	Rep. Lang	Rep. Baldasaro	Rep. Edwards
Rep. Craig	Rep. Prout	Rep. Osborne	Rep. Salloway
Rep. Blasek			

Kirsten Koch 271-3266

Jeb Bradley
Chairman

Senate Health and Human Services Committee

Kirsten Koch 271-3266

HB 187, relative to the emergency powers of the commissioner of health and human services and relative to the membership of the oversight committee on health and human services.

Hearing Date: May 5, 2021

Time Opened: 9:26 a.m. **Time Closed:** 10:10 a.m.

Members of the Committee Present: Senators Bradley, Gray, Avard, Sherman and Whitley

Members of the Committee Absent : None

Bill Analysis: This bill makes various changes to the powers of the commissioner of the department of health and human services during a public health emergency; authorizes the joint legislative oversight committee on health and human services to review, and rescind by a 2/3 vote, emergency orders issued by the commissioner; gives a person subject to a treatment order for a communicable disease a right to a hearing on the order; and amends the membership and duties of the ethics oversight advisory committee. The bill also amends the house membership on the health and human services oversight committee.

Sponsors:

Rep. Marsh	Rep. Lang	Rep. Baldasaro
Rep. Edwards	Rep. Craig	Rep. Prout
Rep. Osborne	Rep. Salloway	Rep. Blasek

Who supports the bill: Rep. William Marsh, Carroll 8; Andrew Manuse; Dan Groves; Jennifer Tuttle; John Cawthron; Elizabeth Surman.

Who opposes the bill: John Williams, DHHS; Melissa St. Cyr, DHHS.

Who is neutral on the bill: None.

Summary of Testimony Presented:

Representative William Marsh, Carroll 8

- Rep. Marsh said, this bill is relative to the emergency powers of the commissioner of health and human services. This bill passed House ED&A, and the House on a voice vote. This bill does not address the governor's emergency orders. This bill addresses emergency orders of the commissioner of DHHS.
- Rep. Marsh said, this includes plans for COVID-19 treatments and various powers under public health and infectious disease laws.
- Rep. Marsh said, emergency orders could supersede criminal laws. There were medical providers that played a role in the holocaust. We are not granting that kind of power.

There needs to be input for a vaccine distribution plan. When I checked, I found out there currently were no appointees for the ethics commission.

- Rep. Marsh said, based on the language of the current statute an individual may refuse treatment, but that individual can be transported by authorities to be forced into treatment for their disease. There should be a right to remain in quarantine.
- Rep. Marsh said, the mask order prevented individuals from getting treatment. You must wear a mask to go into the doctor's office to get a note that you medically cannot wear a mask.
- Rep. Marsh said, Section 3 of the bill addresses membership to the oversight committee. This is not intended to remove minority members from the oversight committee. The House decided to leave it to the Senate to adjust their membership.
- Rep. Marsh said, on Amendment 1242s I am supportive of the need to meet the demand of clinical.
- Sen. Sherman said, how would this bill change who would have advised in making decisions about vaccine planning and distribution?
    - Rep. Marsh said, it puts in statute the process that we actually ended up following. It is the same committee. In the event of a future emergency, we would already have a plan in place to follow.
- Sen. Sherman said, I served on the State Disaster Medical Advisory Committee (SDMAC). The makeup of that committee has an amazing amount of expertise across the state in every aspect of health care. Would this mean we would use the legislatures and appointees to an ethics committee on how to manage a pandemic?
    - Rep. Marsh said, as the Governor said, he wanted to make sure he followed the guidelines of the legislature and the appointees. We would have qualified individuals capable of making such a plan.

John Williams & Melissa St. Cyr, DHHS

- John Williams and Melissa St. Cyr testified together on this bill.
- Ms. St. Cyr said, we oppose certain sections of the bill. She then referred the committee members to the department's submission of written testimony.
- Ms. St. Cyr said, we do not have concerns with most of the bill, but only certain sections:
    - Page 2, lines 31-32 on the Health and Human Services Oversight Committee (HHSOC) on the rescind order
    - Page 3, lines 4-15 on the process
- Ms. St. Cyr said, the HHSOC in RSA 126(a)(13) reads "shall provide legislative oversight of a coordinated... avoid duplication efforts."
- Ms. St. Cyr said, HHSOC allows for collaboration and to best the best decisions at a vital time. It is not an executive branch of government. There are three distinct branches of government. To allow the legislature to rescind an order from the executive branch is an overreach. SDMAC has members that are experts in public health. They are assessing, monitoring, diagnosing, strengthening, and mobilizing, increasing equitable access, innovative health functions, research, assessing strategies to respond to emergencies.

- Ms. St. Cyr said, page 1, lines 3-8, basically allows 21(p) powers and establishes the duties of commission are subject to the Governor in addition to the public health enabling statute. Lines 9-11 carry out all public health authorities.
- Ms. St. Cyr said, the rescission provision attacks every order and the earlier previsions. Section 10, page 3, line 4 prevents the department from enforcing an emergency order.
- Mr. Williams referred the committee to department's submission of written to review proposed amendment language.
- Mr. Williams said, the changes will improve the level of clarity and strike the recision provision on page 2, lines 31-32. That sentence allows the committee to vote to rescind emergency order. Please strike that. The remainder of paragraph is appropriate.
- Mr. Williams said, Rep. Marsh did have the courtesy in communicating with DHHS and the remainder of the bill is reflective of what is reasonable.
- Mr. Williams said, Page 3, Section 9, is fine. Paragraph 10 contains an OLS error. There is new language from the House written in regular text. That new language should be in italics. It was added by House ED&A. Please strike this too.
- Mr. Williams said, if the committee were to go for a joint resolution, the timing does not work. There is not a timely reissuance of a new order allowed by this bill. Please strike this new section 10.
- Mr. Williams said, we are fine with the changes made by Rep. Marsh for membership. Senator Sherman's concerns are recognized and can be addressed by this committee.
- Mr. Williams said, Section 3, page 5, of the omnibus HB 145 provides recommendations on committees changing. It reduced the membership from 8 to 5 members. We respectfully ask you to restore senate membership to 3 members on Page 5, line 11 of this bill.

Representative Jess Edwards, Rockingham 4

- Rep. Edwards said he is a co-sponsor of HB 187.
- Rep. Edwards said, I want to add the thoughts and theories we are familiar within the house. Our system of government relies on checks and balances. There is general assumption that no one dept or individual to be trusted with all the power.
- Rep. Edwards said, the department is not infallible. There should be a check on that power. We need to figure out how to check it. This should not be a question of whether checks and balances are appropriate.
- Rep. Edwards said, the NH Supreme Court allowed individuals' rights to be suspended to deal with the public health emergency. There needs to be a future point where the legislature can step in and be the people's representative. The department does not have economic concerns or freedom of worship concerns. Their only concern is a public health concern. The legislature represents the people and maintenance of society. With respect to the founding principles, let's get them implemented and protected for future scenarios.
- Sen. Avard asked, Ms. St. Cyr brought up the separation of powers. I am concerned that this will be a headache in the future that were going to have to deal with. Can you comment on that?
    - Rep. Edwards said, we inherently accept there can be conflicts when we delegate different powers to different branches. That is a cost of doing business in a free and open society, even in a state of emergency. It is not about a cost on the check on the

system. It is, if in the judgment of the Senate HHS committee, the cost balances with unchecked power. It is a trade-off. We decided hundreds of years ago we do not loan power to one entity.

- Sen. Avard asked, who authorizes the emergency powers?
    - Rep. Edwards said, he would defer to Rep. Marsh to answer.

Representative Marsh testified again.

- Rep. Marsh said, the executive branch gave DHHS its power. It derived power from the legislature. There is no check what-so-ever under existing law. How do we effectively have a check? The legislature needs to have a check on the executive branch. This bill recommends the department follows the same process for when department issues new rules.
- Sen. Avard said, my first question was on separation of powers.
    - Rep. Marsh said, nobody likes to have their power taken away. It is totally appropriate that the legislature is the final authority on what powers it has given to the department. There needs to be a mechanism to resolve this.
- Sen. Avard said, why did you change the numbers of the membership?
    - Rep. Marsh said, last year the House did not like that their membership number had been changed, so we changed it back.
- Sen. Sherman said, in a pandemic we know how quickly we have to respond and how quickly rule-making responds, which is not quickly at all. The oversight is with the Governor and the Governor is held accountable for the commissioner of the department. There already exists significant oversight within the executive branch. Would you not agree the commission should be able to act swiftly with the best science of health?
    - Rep. Marsh said, any commissioner taking reasonable steps could convince the oversight committee. If the committee and the department do not agree, then the commissioner has to defend the executive order in the courts, and it will be decided by the judicial branch. If the commissioner cannot convince the HHSOC, that is when joint resolution can be considered.
- Sen. Sherman asked, are you saying they cannot enforce that order?
    - Rep. Marsh said, that is already in line. They can take them to court.
- Sen. Sherman said, I am not suggesting that. What happens with this process in this bill is, the order is issued, the resolution is called for, and the order cannot be enforced. In the current system, the order is issued, and remains in place until the court removes it if they choose. In this bill, do you not automatically create a potential roadblock, likely for political reasons that is objected to by the legislature, instead of for scientific rationale?
    - Rep. Marsh said, I disagree with that conclusion. This is based on the rules process. I am okay with the courts checking, so long as there is a check.
- Sen. Sherman said, can we have John Williams and Melissa St. Cyr back? I am trying to figure out the practice implication of the section of the bill that you are objecting to.

Melissa St. Cyr testified again.

- Ms. St. Cyr said, the department must be able to respond in an emergency. Our powers were granted for that reason. I agree with separation of powers. The legislature has granted the department the power to address certain concerns in a public health emergency. It is not about losing power, it is about addressing emergencies and threats to public health. Moving swiftly saves lives. It is very dangerous.
- Sen. Avard asked, if there is a perception that there is an abuse of this order, can the legislature rescind the powers any time?
    - Ms. St. Cyr said, the legislature would have to put in a statute to remove our power.

KNK
Date Hearing Report completed: May 6, 2021

Senate Health and Human Services Committee

Kirsten Koch 271-3266

Amendment # 2021-1242s to HB 187, relative to the emergency powers of the commissioner of health and human services, relative to membership of the oversight committee on health and human services and establishing a license and requirements for licensed social workers.

Hearing Date: May 5, 2021

Time Opened: 10:10 a.m. **Time Closed:** 11:22 a.m.

Members of the Committee Present: Senators Bradley, Gray, Avard, Sherman and Whitley

Members of the Committee Absent : None

Amendment Analysis: This amendment establishes a license and requirements for licensed social workers.

Sponsors:

Rep. Marsh	Rep. Lang	Rep. Baldasaro
Rep. Edwards	Rep. Craig	Rep. Prout
Rep. Osborne	Rep. Salloway	Rep. Blasek

Who supports the bill: Michele Merritt, New Futures; Susan Paschell, CBHA; Ken Norton, NAMI-NH; Lynn Stanley, NASW.

Who opposes the bill: None

Who is neutral on the bill: Donald Pfundstein, AHIP; Sabrina Dunlap, Anthem; Peter Bragdon, Harvard-Pilgrim Health Care; Tyler Brannen, NH Insurance Department.

Summary of Testimony Presented:

Senator Bradley, District 3

- Sen. Bradley said the President and CEO of New Futures, Michele Merritt, brought forth this amendment to us.
- Sen. Bradley said, we need more bachelor's level social workers in NH.
- Sen. Bradley said, there has been a debate about the need for facilities too. All the money and facilities in the world will not solve this problem without a qualified workforce. We need to enhance our workforce. Allowing entry level bachelor's credentials for mental health workers is appropriate. This has been done before.

- Sen. Bradley said, I would indicate that according to Ms. Merritt that forty other states allow this. We need those folks to be licensed here in NH.
- Sen. Bradley said, I appreciate the co-sponsorship of all Senate HHS committee members on this amendment. If we are going to try to resolve the mental health situation, then we have to take this step to get more qualified people working on this issue.

Senator Whitley, District 15

- Senator Whitley said, we know that the mental health and substance misuse crisis is very complicated. We have been working on this for many years. We need multiple solutions. There have been bipartisan efforts to put money and resources into this. We built new services, mobile crisis response, and transitional housing services. We have yet to address the mental health workforce. What can we do to expand capacity in workforce?
- Sen. Whitley said, we need enough licensed workers to meet the needs of our communities. Programs and facilities are struggling to find licensed clinicians. We have to support a pipeline of workers that will go into the workforce and stay in NH. This amendment is critical to building a pipeline and career path. It lays the foundation for sufficient reimbursement.
- Sen. Whitley said, this bill establishes associate and bachelor's level credentials, as well as conditional credentials.
- Sen. Whitley said, this amendment eliminates the licensure barrier and creates an entry level social work license. NH is one of very few states that limits licensure to social workers with a master's degree.
- Sen. Whitley said, substance use is a mental disorder. We want parallel licensure for that too.
- Sen. Whitley said, many individuals do not have time or money to get their master's degree.
- Sen. Whitley said, this will not solve all our issues, but it will really go a long way to fill the holes.
- Sen. Whitley said, in the second part of bill, programs, community health centers, FQHCs are included. They are already credentialed by Medicaid. Many FQHCs are used as facility credentials. Previously, every clinician had to be credentialed with every carrier.

Tyler Brannnen, NH Insurance Department

- Mr. Brannen testified as neutral on amendment.
- Mr. Brannen said he supports the concept of expanding licensing to mental health providers.
- Mr. Brannen said this situation is similar to when the ACA licensing allowed access for nurse practitioners and physician's assistants. Physician's assistants were given more access under primary care providers. This allowed them to reasonably bill carriers and ensure access to services.

- Mr. Brannen said, we do have a concern with page 5, which changes the definition of "facility." These programs are not facilities. There may be unforeseen consequences to this change.
- Mr. Brannen said, health care services get reimbursed. Hospitals or facilities and bill by providers Revisiting definition of facility, the billing could change as well. Would providers start to bill as facilities? This change may not affect credentialing in the way we hoped.
- Sen. Sherman said, this is not new to DHHS where MCOs can be credentialed as a facility. Isn't it true that MCOs have a commercial product and an MCO product reimburses just fine while their commercial product does fine with credentialing? When you do provider-based credentialing it is labor intensive. If there is a standard on who is able to do what as a facility, it is more cost-effective for both the provider and carrier to do one-stop-shop facility credentialing? Isn't this not new? Isn't this more efficient and cost efficient?
    - Mr. Brannen said, they would have to meet requirements on both sides. We are not regulating the MCOs and what they may be doing as a facility. We are not familiar with that process. I look at where a facility shows up in insurance statute. I did not find anything. First, providers offer credentialing for their own providers. Carriers do too and it is redundant. The concern is not with the solution. It is with the legislative intent.
- Sen. Avard asked, do you have any suggestions on how to solve this problem?
    - Mr. Brannen said, no, but we probably need to revise credentialing requirements and not redefine facilities.
- Sen. Whitley said, some of our federally facilities are credentialed as facilities. Are you aware of that?
    - Mr. Brannen said, no, but I believe it. Redefining "facility" does not get us there.
- Sen. Whitley said, if you look at the amendment, there are two parts, the definitions and the policy preference.
    - Mr. Brannen said, I cannot provide the response you are looking for. What makes it possible? Is it a facility or is it not? Including a program under facility does not get us there.
- Sen. Whitley said, we want this to work in the best way possible. We include these entities under the definition. Could you see way we could reference the statute without redefining?
    - Mr. Brannen said, the challenge is dealing with credentialing collectively by making them facilities. This introduces more questions than answers. Think of urgent care centers and the patients who walk out with unexpected costs. I see you are looking for a more efficient credentialing process and that is reasonable.
- Sen. Whitley asked, couldn't we flesh out these issues in rulemaking?
    - Mr. Brannen said, I do not think so.

Ken Norton, NAMI-NH

- Mr. Norton said, this amendment is protecting payment and protecting professionals rather than solving the problem.
- Mr. Norton provided a personal anecdote about his career in social work.
- Mr. Norton said he wanted to note two key points:

- (1) Bachelor's level social workers have been successfully providing these services for years.
- (2) The licensing and credentialing process has become too lengthy and extensive.

- Mr. Norton said, who is that length process protecting? Definitely not the patients in need of services because now there are no longer enough clinicians to support the demand.
- Mr. Norton said, I see the need for this amendment, and it provides a workforce career path. We are still seeing reciprocity for licensed professionals from other states as a struggle in NH.
- Mr. Norton said, we support the new definition of facilities. We need to reimburse any licensed professional from carriers. State licensure should be a universal licensing process that makes reimbursement from Medicaid consistent.
- Mr. Norton said, if we want more workers, we need something to change. I ask you to vote OTPA on HB 187 with the Amendment # 2021-1242s.
- Sen. Avard asked, in respect to the other states, do you know which states define programs as facilities?
  - Mr. Norton said, I believe Rhode Island does. I can follow up.

Lynn Stanley, National Association of Social Workers, NH Chapter (NASW)

- Ms. Stanley said, licensure and conditional licensure comes with increased services that are allowed to be reimbursed. It creates a career path for workers.
- Ms. Stanley said, a social worker has a higher level of responsibility under this licensure and the supervisor could be held legally responsible. This is a double-edged sword for social worker.
- Ms. Stanley said, under the LSW tier, a social worker may not have real world application experience or ethical education training. While a bachelor's level has been immersed in a full training and education. Just because someone can practice, does not mean they should. These lower tier licensed workers can provide counseling, but they should not diagnose or provide psychotherapy.

Sabrina Dunlap, Anthem

- Ms. Dunlap said, we have been working on these complex mental health issues in NH. The workforce shortage is a major issue and I appreciate the comments about the workforce pipeline. I believe there are actions we can take outside the legislative setting.
- Ms. Dunlap said, we have concerns about the amendment with the tiers of social workers and the new definitions. It is not clear to me why after two years the supervisory oversight would end for the first tier worker. With the second tier, we are concerned about the broad scope of services. It seems like this associate tier, a license without accreditation component gives the social worker a clinical component. Our team was not aware of any other state allowing this. It should not allow these level workers to do counseling or clinical work.
- Ms. Dunlap said, I agree with a lot of what Mr. Brannen said. Changing the term of "facility" could have unintended consequences for that statute. Section 8 of the

amendment could be adjusted to avoid facility redefining. I would flag concerns with the changes that defines programs as facilities. There is a clear distinction between facilities with actual materials and a location and just the program.

- Ms. Dunlap said, in closing, we understand and agree with the good intentions of this amendment. We wish this amendment had tighter parameters. We would be happy to continue this discussion.

Donald Pfundstein, AHIP

- Mr. Pfundstein said, he supports the entry level bachelor licensing.
- Mr. Pfundstein said, I want to point out that the amendment includes an associate level of licensing.
- Mr. Pfundstein said, in a Medicaid context, the managers of the programs in NH have said the credentialling of a facility is what is referred to as "delegated credentialing."
- Mr. Pfundstein repeated testimony explaining the basics of credentialing.
- Mr. Pfundstein said, on Line 26 of page 3, someone who is conditionally licensed would be working under supervision.

Michele Merritt, New Futures

- Ms. Merritt said she wanted to clarify that her testimony is only on Amendment # 2021-1242s and not on HB 187.
- Ms. Merritt said, there has been an overwhelming rise of children waiting in emergency rooms for mental health services. There are several issues compounding this crisis: a lack of workers, the need for a pipeline for workforce development, and consistent issues with reimbursement for bachelor level social workers.
- Ms. Merritt said, in terms of the pipeline, thirty other states and DC allow bachelor's level licenses for social workers. Several other states have licensing available for the associate level.
- Ms. Merritt said, this licensing mirrors the LDAC statute. Without a bachelors or associate level credential there is a lack of parity. There are significant reciprocity issues for social workers from other states when they come to NH. This is a common-sense solution that addresses a number of social workers. New graduates in the state alone could potentially fill all of the vacancies. Even a modest influx of workers could be transformational.
- Ms. Merritt said, to address the question of LSW ending supervision around two years. This is model law. The National Association of Social Work Board provides that social workers in those tiers can practice independently. Even master's level social workers have ongoing case reviews. Further, there is an entry level associate exam under the national board.
- Ms. Merritt said, the only oversight is conditional licensure. We forgot one credential: the school social workers. We suggest adding that as well.
- Ms. Merritt said, this amendment provides new opportunity for reimbursement for social workers. Private insurance would reimburse but the license would provide for greater

reimbursement. This amendment brings clarity to NH managed care law and creates a general idea to create flexibility in credentialing.

- Ms. Merritt said, I want to address concern from NH Insurance Department. We engaged with their policy team and it was very clear with us that managed behavioral health facility is categorized separately.
- Sen. Whitley asked, I am not familiar with the NCQA process. Can you give us an overview?
    - Ms. Merritt said, it may be easier for me to send you a summary from them on this issue.
- Sen. Sherman asked, where did you want the "school social worker" in the bill?
    - Ms. Merritt said, in the list of conditional licensure categories.
- Sen. Sherman said, it is on page 1, line 11. Where do you want that?
    - Ms. Merritt said, on page 3 and 4. They are missing from that list.
- Sen. Sherman said, so lines 27 and 28.

Hon. Peter Bragdon, Harvard-Pilgrim Health Care

- Mr. Bragdon testified as neutral on the amendment.
- Mr. Bragdon said, I am hoping the committee does not exec this bill right away today. We would like to help work on this.
- Mr. Bragdon said, I am concerned about the broad and subjective language on page 5, "a carrier shall whenever possible qualify entities." It may need to clarification for more specific language.
- Mr. Bragdon said, does including programs under facilities introduce other requirements we need to consider? Treating a program like a mental health center is much different when included at a statutory scheme.
- Mr. Bragdon said, we want to take more time to look at credentialing requirements for social workers at each of the levels.

Representative Jess Edwards, Rockingham 4

- Rep. Edwards said, we all agree we have a serious workforce program.
- Rep. Edwards said, I would encourage you to think about the history and development of the physician assistant's program.
- Rep. Edwards said, at what extent do bachelor's programs prepare clinicians for work. Are these programs designed for individuals to go into graduate programs or to go right into clinical work? I encourage you to check on that.
- Rep. Edwards said, we have examples of how credentials have been added to through the physician assistant program.

Sen. Bradley said, I would like to ask these individuals to work with us on a viable way to bring this amendment forward. We do not have to exec this bill today. We are not going to. I will leave

it to Ms. Merritt and Ms. Dunlap to structure a time to meet when at least some of the senators can participate.

KNK
Date Hearing Report completed: May 6, 2021

Speakers

Senate Remote Testify

Health and Human Services Committee Testify List for Bill HB187 on 2021-05-

Support: 18 Oppose: 3 Neutral: 3 Total to Testify: 9

Name	Email Address	Phone	Title	Representing	Position	Testifing	!
Stanley, Lynn	Not Given	Not Given	A Lobbyist	National Association of Social Workers - NH Chapter	Support	Yes	4
Williams, John	john.l.williams@dhhs.nh.gov	(603) 271-93	State Agency Staff	DHHS	Oppose	Yes	5
St. Cyr, Melissa	Melissa.St.Cyr@dhhs.nh.gov	Not Given	State Agency Staff	DHHS	Oppose	Yes	5
Norton, Kenneth	knorton@naminh.org	603.225.5359	A Lobbyist	NAMI NH The National Alliance On Mental Illness	Support	Yes	4
Brannen, Tyler	tyler.j.brannen@ins.nh.gov	271-2396	State Agency Staff	Insurance Department	Neutral	Yes	4
Pfundstein, Donald	pfundstein@gcglaw.com	603.496.6691	A Lobbyist	AHIP	Neutral	Yes	5
Marsh, William	wmarshmd@gmail.com	603.569.6382	An Elected Official	Myself	Support	Yes	5
Merritt, Michele	mmerritt@new-futures.org	603.305.8020	A Lobbyist	New Futures	Support	Yes	5
Dunlap, Sabrina	sabrina.dunlap@anthem.com	603.703.8073	A Lobbyist	Anthem	Neutral	Yes	5
Osgood, Deborah	debosgood@protonmail.com	16036740834	A Member of the Public	Myself	Support	No	5
Darrow, Linda	lindard.1956@gmail.com	603.269.0807	A Member of the Public	Myself	Support	No	5
Lesmerises, Gerry	gerry.lesmerises@gmail.com	603.724.4863	A Member of the Public	Myself	Support	No	5
Tuttle, Jennifer	Mom4ever81@gmail.com	603.923.3531	A Member of the Public	Myself	Support	No	5
Paschell, Susan	spaschell@dupontgroup.com	603.496.6760	A Lobbyist	NH Community Behavioral Health Assn	Support	No	5
Untiet, Kelly	Not Given	Not Given	A Member of the Public	Myself	Support	No	4
Manuse, Andrew	amanuse@gmail.com	603-703-8857	A Member of the Public	Myself	Support	No	5
Weston, Leah	crunchycon57@gmail.com	16033069556	A Member of the Public	Myself	Support	No	5
Lucas, Janet	janluca1953@gmail.com	16037267614	A Member of the Public	Myself	Oppose	No	5
Dutton, Robert	bobdutton@aol.com	Not Given	A Member of the Public	Myself	Support	No	5
Cawthron, John	johncaw@myfairpoint.net	Not Given	A Member of the Public	Myself	Support	No	5
dutton, mabel	bibbsdutton@aol.com	Not Given	A Member of the Public	Myself	Support	No	5
Noyes, Chris	Chris@crosstowncourierservice.com	413.657.6293	A Member of the Public	Myself	Support	No	5
Dunlap, Elisabeth	dunlapme@gmail.com	Not Given	A Member of the Public	Myself	Support	No	5
Daniels, Amy	adaninh@gmail.com	Not Given	A Member of the Public	Myself	Support	No	5

Testimony

Kirsten Koch

From: Jaime Gundy <gundyja@hotmail.com>
Sent: Friday, May 14, 2021 12:31 AM
To: Kirsten Koch
Subject: HB 187 support for bill without senate amendment

Greetings

Nh students were denied access ro education based on NH DHHS rules. Rules that were, in practice, more restrictive than CDC guidance and for any other industry in NH, including high risk populations like nursing homes. Public health messaging encouraged testing for minor symptoms and schools put in place policies that had healthy students being tested for covid 19 regularly, with tests we know were resulting in false positives, especially in asymptomatic cases. The effect of any positive test was exponential in that every student with close contact to a positive test was also told to quarantine and excluded from school.

DHHS guidance to business and private citizens via 211 quickly reported one could test out of false positives. Conversely, obtaining that information as it related to schools took weeks of emails, phone calls, and support of other NH departments because, as NH DHHS admitted, "we do not advertise it". NH DHHS Education Liasons office repeatedly stated in conflict with the policy, the "positive equals a positive" mantra school districts parotted to their communities and parents. The clarification of DHHS policy, by the way, would have precluded a individual from accessing a test out process within timeframe policy stipulated.

One justification given by the DHHS department communicating to education was anecdotal and based on her families personal experience with a alleged false negative test. Another was CDC guidance that I was promised a copy of though the individual mysteriously hung up on whilst my contact information was being collected. Maybe it was because the CDC guidance was less restrictive and did not support NH DHHS policy as it was practiced, at all. Unlike NH DHHS policy, the CDC guidance was easily accessible to the public, schools, medical professionals and parents. CDC guidance included a test out of false positive procedure even for high risk populations, such as skilled nursing facilities.

This is totally unacceptable. Why was DHHS overstepping the CDC recommendations while falsely citing it to the public and making key elements of the guidance inaccessible? Why did it take months to get straight answers from DHHS? Who was accountable? Why did businesses and individuals get less restrictions put on them than the education sectors?

Already, current research demonstrates that remote education was not successful, kids are behind and that such lockdown measures have increased students with speech delays. Working moms have also paid dearly for these mistakes and suffered some of the biggest losses as a demographic. I wonder how that would have worked out if DHHS had a transparent and accesible test out process for asymptomatic students with false positives based on CDC guidance rather than being overly restrictive to the lowest risk population.

NH citizens demand legislative oversight for DHHS!
Support HB 187 WITHOUT the Senate amendment and stand with the families across the state whose children needlessly lost access to a appropriate public education during critical developmental milestones because of a made up policy, a lack of accountability and nontransparency from unelected officials.

Respectfully,
Jaime Carter
Resident

Kirsten Koch

From: Williams, John <John.L.Williams@dhhs.nh.gov>
Sent: Wednesday, May 5, 2021 8:34 AM
To: Kirsten Koch
Cc: Jeb Bradley; jebebrad@metrocast.net; St. Cyr, Melissa
Subject: HB 187, relative to the emergency powers of the commissioner of health and human services and relative to the membership of the oversight committee on health and human services.
Attachments: HB 187 Draft Amendment to Remove Rescission Authority - Joint Resolution 05-05-2021.docx

Hi Kirsten,

Attached is the Department's draft proposed amendment to HB 187 (underlying bill) being heard this morning before Senate HHS Committee. Attorney Melissa St. Cyr, Chief Legal Officer for the Department, and I will be providing testimony to oppose the highlighted language in section 1. As to the remainder of the bill, we are fine with the language with one minor amendment in section 3 to restore the number of Senate members to three serving on the HHS Oversight Committee (HB 1245 [2020] reduced the overall membership from eight to five). Thank you and Senator Bradley for your assistance.

Kindest regards,

John

John L. Williams, Esquire, Director of Legislative Affairs, New Hampshire Department of Health & Human Services
129 Pleasant Street
Concord, NH 03301

(603) 271-9395 (office)
(603) 545-2934 (cell)

STATEMENT OF CONFIDENTIALITY: This message may contain information which is privileged and confidential and is intended for the exclusive use of the individual(s) to whom it is addressed.

DHHS DRAFT AMENDMENT 05/05/2021 (jlw)

AN ACT relative to the emergency powers of the commissioner of health and human services and relative to the membership of the oversight committee on health and human services.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Department of Safety; Public Health Emergency Management Powers. Amend RSA 21-P:53 to read as follows:

21-P:53 Public Health Powers and Duties. During the existence of a state of emergency under this chapter, the commissioner of health and human services shall have the following powers and duties, subject to the direction and control of the governor, which are in addition to those set forth in RSA 141-C; provided that such powers and duties shall be limited to the specific nature of the emergency, its geographic limits, and the conditions that brought it about, as specified in the declaration of the state of emergency:

I. The commissioner shall have the responsibility and authority to carry out all public health activities within the state in cooperation and collaboration with the division of homeland security and emergency management.

II. The commissioner may, without the approval of the [~~governor's~~] ***executive*** council or the legislative fiscal committee, and notwithstanding the provisions of RSA 4:45, 9:13-d, and 9:19, [~~and any other law to the contrary,~~] purchase and distribute anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents that the commissioner deems to be in the interest of public health.

III. If there is a statewide or regional shortage or threatened shortage of any anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents, the commissioner may control, [~~restrict~~] ***prioritize***, and ration the use, sale, dispensing, distribution, or transportation of such products as necessary to best protect the health, safety, and welfare of the people of this state. In making rationing or other supply and distribution decisions, the commissioner shall determine high risk or critical need groups that shall receive priority for such products.

III-a. The commissioner shall have no power to restrict the ability of a licensed practitioner to prescribe pursuant to RSA 329 and RSA 326-B.

III-b. If during a public health emergency, a treatment or vaccination should become available which is anticipated to be in limited supply, the commissioner shall develop, in consultation with the ethics oversight advisory committee, established in RSA 141-C:27, a plan for its distribution.

IV. The commissioner may investigate any incident or imminent threat of any disease or health condition that may be caused by a natural disaster, radiation or chemical exposure, or the release of any microorganism, infectious substance, or naturally occurring or manufactured biological product, that poses a risk of a significant number of human fatalities or incidents of permanent or long-term disability. Such investigations may include requiring information from any health care provider or other person affected by, or having information related to, the incident or threat, inspections of buildings and conveyances and their contents, laboratory analysis of samples collected during the course of such inspections, and requiring a physical examination and the provision of specimens of body secretions, excretions, fluids, and discharges for laboratory examination of any person having a disease or health condition that necessitates an investigation under this paragraph.

V. The commissioner may order a person to undergo such medical care as may be necessary to treat or prevent an incident or threat of disease or other health condition prompting an investigation pursuant to paragraph IV. Such care may include immunization of individuals as necessary to prevent the spread of contagious disease, except that an individual may refuse treatment or immunization pursuant to the provisions of [~~RSA 141-C:15, VI~~] ***RSA 141-C:16 and RSA 141-C:20-c***.

VI. Any order compelling an investigation, physical examination, the provision of specimens, medical treatment or care, or immunization, and any other order of the commissioner under this chapter, shall be subject to the due process requirements of RSA 141-C:14-a.

VII. The department of health and human services shall acquire and retain only the minimum amount of information, specimens, and samples relating to individuals necessary to carry out its obligations under this section. Any genetic testing of specimens and samples shall be limited to the viruses, bacteria, fungi, or other microorganisms therein. Personally identifiable information shall not be acquired or retained unless necessary for the department to carry out its responsibilities under this section, RSA 141-C, or any other provision of law. Such information shall not be retained beyond the duration of the state of emergency without the approval of the governor and executive council, which information shall be subject to the confidentiality provisions of RSA 141-C:10.

VIII. Except as provided in paragraph IX, an emergency order issued under this section shall be subject to review by the joint legislative oversight committee on health and human services, established in RSA 126-A:13. ~~The committee may vote to sponsor a joint resolution rescinding the emergency order pursuant to RSA 21-P:53 X.~~ The commissioner shall notify the ethics oversight advisory committee established in RSA 141-C:27 of any emergency order issued under this section, and the joint legislative oversight committee shall consider the input of the ethics committee, if provided, in any decision. If the emergency precludes either committee from meeting in person, they shall be authorized, notwithstanding any other provision of law, to meet remotely for this purpose.

IX. An emergency order issued under paragraph V or VI shall be subject to legislative oversight by the ethics oversight advisory committee pursuant to RSA 141-C:27, II(b).

~~X. If the committee votes to sponsor a joint resolution pursuant to subparagraph VIII, the joint resolution shall be introduced in the house of representatives or senate within 20 business days of such vote when the general court is in session and 20 business days of the start of the following legislative session if such vote occurs when the general court is not in session. If a joint resolution is introduced within this time frame, the commissioner shall be prevented from enforcing such emergency order until final legislative action is taken on the resolution or the passage of 90 consecutive calendar days during which the general court shall have been in session, whichever occurs first. The 90 calendar day period shall commence on the date such joint resolution has been introduced. If the session of the general court adjourns prior to the sixtieth calendar day after such joint resolution has been introduced, then the commissioner shall be prevented from enforcing such emergency order until 90 calendar days, beginning with the next session of the general court, have passed.~~

2 Communicable Disease; Ethics Committee. Amend RSA 141-C:27 to read as follows:

141-C:27 Ethics ***Oversight Advisory*** Committee.

I. There is hereby established an ethics ***oversight advisory*** committee to offer advice to the commissioner relative to the ethical issues that may be identified in the course of planning for, and responding to, outbreaks of communicable disease that threaten to become epidemic or pandemic ***and to review and provide recommendations for investigations, orders, and treatment ordered by the commissioner.***

II. The committee shall*:*

(a) Consider the ethical implications of any of the powers that may be exercised by the commissioner under the provisions of this chapter including, but not limited to, the confiscation, distribution, and rationing of anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents, and mechanical equipment; the issuance and enforcement of orders of isolation, quarantine, medical examination, and medical treatment; issues relative to information sharing and confidentiality; and the provisions for due process for orders issued pursuant to this chapter.

(b) Review, at least annually, a report of investigations conducted pursuant to RSA 141-C:9 and orders issued under RSA 21-P:53, V and VI, and provide recommendations to the department. Any information furnished to the committee shall be aggregated and de-identified. The department shall not share any confidential information with the committee.

(c) Consider the competing rights of disabled persons who might be unable to comply with certain orders, health care workers who are entitled to a safe workplace, and the need to protect the public from communicable disease, and may recommend modification of orders to address specific concerns.
(d) Consider both the need to protect the most vulnerable members of society as well as the need for the most efficacious means to control a public health emergency when consulting with the commissioner pursuant to RSA 21-P:53, III-b in developing a plan for the distribution of a new treatment or vaccination.
III. The members of the committee shall be as follows:
(a) ***Two members of the house or representatives, one of whom shall be from the minority party, appointed by the speaker of the house of representatives.***
(b) One member of the senate, appointed by the senate president.
(c) The director of the ***department of health and human services,*** division of public health services.
[~~(b)~~] ***(d)*** The state epidemiologist.
[~~(c)~~] ***(e)*** The attorney general, or designee.
[~~(d)~~] ***(f)*** A representative of a public health network, appointed by the commissioner.
[~~(e)~~] ***(g)*** A representative from a college or university public health program, appointed by the commissioner.
[~~(f)~~] ***(h)*** A chief of police or a police officer of a local police department, appointed by the New Hampshire Association of Chiefs of Police.
[~~(g)~~] ***(i)*** A chief of a local fire department, appointed by the New Hampshire Association of Fire Chiefs.
[~~(h)~~] ***(j)*** A physician, licensed under RSA 329, appointed by the New Hampshire Medical Society.
[~~(i)~~] ***(k)*** The commissioner of the department of safety, or designee.
[~~(j)~~] ***(l)*** A member of a fire department with a minimum of EMT-B certification, appointed by the Professional Firefighters of New Hampshire.
[~~(k)~~]***(m)*** A representative of a hospital, appointed by the New Hampshire Hospital Association.
[~~(l) A county representative, appointed by the New Hampshire Association of Counties.~~]
(n) The commissioner of the department of labor, or designee.
(o) A representative of the Disability Rights Center of New Hampshire, appointed by the center.
IV. [~~The commissioner shall appoint a member of the committee to act as chairperson.~~] ***The committee shall elect one of the legislative members as chairperson. Legislative members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.*** The committee shall meet initially within 30 days of the effective date of this section and then as regularly as the chairperson shall direct.
V. The commissioner may at any time direct questions to the committee or request guidance on ethical issues.
VI. The committee [~~shall be solely advisory in nature and any guidance, guidelines, or protocols issued by the committee shall not be binding on the commissioner~~] ***may provide advisory opinions, including draft guidance, guidelines, or protocols, which shall not be binding on the commissioner or any member of the public.***
3 Department of Health and Human Services; Oversight Committee. Amend RSA 126-A:13, I to read as follows:
I. There shall be an oversight committee on health and human services consisting of [~~5~~] ***the following*** members [~~as follows~~]:
(a) [~~Two~~] ***Three*** members of the senate, at least one of whom shall be a member of the senate health and human services committee and one of whom shall be a member of the senate finance committee, appointed by the president of the senate[~~; and~~].
(b)***(1)*** [~~Three~~] ***Five*** members of the house of representatives, [~~2~~] ***3*** of whom shall be from the health, human services and elderly affairs committee, and one of whom shall be from the house finance committee ***division responsible for the department of health and human services***, appointed by the speaker of the house of representatives.

(2) Two members of the house of representatives, one of whom shall be appointed by the speaker of the house of representatives, and one of whom shall be appointed by the leader of the minority party of the house of representatives, shall be available to serve, at the request of the committee chairperson, as an alternate member for an absent committee member. An alternate member shall have full voting authority while serving for an absent committee member.

4 Effective Date. This act shall take effect upon its passage.

Thank you Mr Chair and members of the committee. For the record, I am Rep. William Marsh, Carroll 8, representing 7 towns in southern Carroll County.

I am pleased today to offer for your consideration HB187, relative to the emergency powers of the commissioner of health and human services. As you all know, this bill passed HHS&EA 19-2 and the House 333-6, and passed House ED&A 17-1, and the House a final time on a voice vote.

This bill does not address the Governor's emergency orders. Other bills do that. This bill addresses emergency orders from the commissioner of DHHS, of which there were two. On April 3, the Commissioner issued an emergency order regarding the prescribing and distribution of chloroquine to treat covid-19. On September 1, she rescinded this emergency order. The bill also deals with various powers under the public health and infectious disease laws.

Let me go through the bill and hit the highlights.

p. 1 lines 13-14 we strike "and any other law to the contrary." The role doctors and nurses played in the holocaust is troubling. I am troubled that emergency orders could in NH supersede certain criminal laws, not that I believe our commissioner would ever be involved in such.

p. 1 lines 17-23 you can see current law which I believe was appropriately used to limit the distribution of hydroxychloroquine under the emergency order. But I am not convinced the legislature intended to give the power to the commissioner the power to prevent the prescribing of a drug medical professionals had reason to believe might be effective. Changing "restrict" to "prioritize" and adding lines 24-25 clarify that we are not granting that power.

During bill drafting, the need for input into the vaccine distribution plan became evident. Reviewing the statute, I saw we had an existing ethics committee, so I called John Williams and asked who was on it. He told me there were no current appointees, but the governor subsequently reconstituted it. To be ready for the next pandemic, this is referenced in lines 26-29. We will discuss this further in section 2.

p. 2 lines 16-17 – we are changing none of the language of the existing statute, but changing the reference. The language of the current statute clearly states an individual may refuse treatment, but the current reference RSA 141-C:15 VI states "any law enforcement officer shall take such individual into custody and transport the individual to the place or facility where the treatment is to be provided." RSA 141-C:16 clearly gives individuals the right to refuse treatment and remain in quarantine. RSA 141-C:20-c are the grounds for refusing vaccination.

p. 2 line 29 and on is new language. One of our objectives is to make sure emergency orders are subject to legislative oversight. HHS Oversight already exists so we did not need to create a committee for this purpose. This section was rewritten by the ED&A committee to mirror the process of final objection to rules followed by JLCAR.

Section 2 of the bill is a rewrite of the ethics committee established for H1N1 to accomplish five things:

1) The committee should actually have appointees and exist when it is needed. By appointing legislators to the committee we can make sure that will happen.

2) The committee should review investigations, orders, and treatments ordered to make sure they are done appropriately and fairly. This will be done with aggregate and de-identified data.

3) Last year's HHS&EA committee was contacted by an individual representing a disabled individual who felt their rights were violated as a mask order prevented them from getting needed medical care. We discussed having a commission to address such concerns but the existing ethics committee already in statute seemed a more logical place to address these concerns.

4) The Governor used the State Disaster Medical Advisory Committee to reconstitute the ethics committee to create the vaccine distribution plan. When the plan was created, there was no data to suggest the current vaccine prevents the spread of disease – if there were it would have been debatable whether the vaccine should first be deployed to protect the most vulnerable in society or to interrupt the vectors that spread disease.

Section 3 addresses the membership changes to HHS Oversight in last year's HB1245 on page 9. We do not believe those changes were intended to remove minority party input from HHS Oversight, and this section undoes those changes. We left it to the Senate to change their membership if they so desired.

Regarding amendment 1242s, I recognize the shortage of mental health practitioners in NH, and am supportive of these new sections allowing these individuals to practice under supervision so that the clinical need is met.

Thank you, and I will be glad to take questions.

May 5, 2021

The Honorable Jeb Bradley, Chair
Senate Health and Human Services Committee
Legislative Office Building, Room 100
33 North State Street
Concord, NH 03301

Re: New Futures' Support for HB 187 Amendment #2021-1242s (relative to the emergency powers of the commissioner of health and human services, relative to membership of the oversight committee on health and human services, and establishing a license and requirements for licensed social workers),

Dear Senator Bradley and Honorable Members of the Committee,

New Futures appreciates the opportunity to testify in support of proposed Amendment #2021-1242s to HB 187, relative to the emergency powers of the commissioner of health and human services, relative to membership of the oversight committee on health and human services and establishing a license and requirements for licensed social workers. New Futures is a nonpartisan, nonprofit organization that advocates, educates, and collaborates to improve the health and wellness of all New Hampshire residents. We work extensively with policy makers, care providers and families to address behavioral health issues facing our state.

New Futures stands in strong support of Amendment #2021-1242s, as it aims to increase the number of behavioral health professionals licensed and available to serve NH's most vulnerable residents. For the past several months, New Futures has worked with a broad group of stakeholders to address the alarming rise of children boarded in hospital emergency rooms across the state while awaiting treatment for acute behavioral health conditions. Through these collaborative efforts, several issues were identified as compounding the ER boarding crisis; a lack of workers to provide essential mental health services, a need for a workforce pipeline to bring more individuals into the profession, and consistent problems with the reimbursement of bachelor's level mental health workers. Amendment #2021-1242s addresses each of these issues.

Behavioral Health Workforce Professional Pipeline

Creating a professional pipeline for behavioral health workers through licensure is not a new concept. For social work professionals, thirty-eight other states and five U.S. territories (including Washington, D.C.) offer a bachelor's level license in social work. NH's own Board for Licensed Alcohol and Other Drug Use Professionals also has a similar licensure pipeline, with associate level licensure for addiction treatment providers. The lack of an entry level license for NH's mental health profession not only creates a pipeline challenge and a lack of parity with the LDAC board's credentials, but also creates significant reciprocity issues due for mental health and social workers similarly licensed in other states. From a policy perspective, entry level licensure for mental health workers is a commonsense solution, which would undoubtedly increase the number of available professionals to meet NH's growing demand for services.

NH's could reasonably expect to see a 50% increase in the number of clinicians applying for licensure annually by introducing the two entry-level credentials proposed in Amendment #2021-1242s. NH's university systems alone matriculate an average of 80 bachelor's students in social work per year; all of whom would meet minimum criteria for conditional licensure as a LSW upon graduation under this

proposed structure. With vacancies at community mental health centers of around 200 clinical positions, even a modest influx of workers through this new licensure pathway could be transformational to the mental health system.

Reimbursement for Bachelor's-Level Mental Health Workers

Beyond the creation of a pipeline for mental health and social work professionals, this amendment would also have the impact of creating new opportunities for reimbursement of services delivered by bachelor's-level workers. Without a license and a clearly defined scope of practice, there are few circumstances under which a private health insurance carrier will reimburse for services delivered by a bachelor's level worker. Creating opportunities for licensure addresses this issue, allowing for reimbursement through private insurance in a wider variety of clinical settings.

Finally, the last component of this amendment provides needed clarity to NH's managed care law. While NH's Medicaid Managed Care Organizations credential all CMHCs as facilities, which allows for greater flexibility in the use of various staff to provide non-clinical or functional support services. However, this practice of "facility credentialing" mental health centers is not consistent among private insurance carriers. Instead, carriers credential clinicians *individually*. This process is burdensome, time-consuming and has the impact of excluding services rendered by bachelor's level clinicians from the array of benefits available to privately insured individuals. Because of this, privately insured patients have fewer options for supportive services, increasing their likelihood of rehospitalization or relapse. Clarifying the definition of "facilities" to include providers like CMHCs, as well as clearly articulating the state's preference for carriers to designate entities as "facilities" whenever possible for credentialing, will go far in addressing access issues for privately insured patients and the providers that serve them.

We understand there are questions regarding facility credentialing and the intersection with NCQA requirements. New Futures asked the policy team at NCQA for their formal opinion as to whether there were any NCQA restrictions on the credentialling of Community Mental Health Centers as a facility. They stated in their response that this is a currently permitted and accepted practice. *"For NCQA Health Plans, Managed Behavioral Healthcare Organization and Credentialing Accreditation programs, Community MH Centers (CMHC) fall into the category of ambulatory behavioral healthcare facilities and are assessed under the CR 7 (Organizational Providers) standard. C7 Organizational Providers include, but are not limited to, hospitals, home health agencies, skilled nursing facilities, free-standing surgical centers, suppliers, laboratories, ambulatory care clinics, residential treatment providers, inpatient behavioral health providers and ambulatory behavioral health clinics."* It appears NH's statute and definitions of facilities are simply outdated and in need of refresh or clarity given this guidance from NCQA.

For the sake of health and well-being of Granite State children and families, we respectfully request that the Committee recommend Amendment #2021-1242s to HB 187 Ought to Pass.

Please do not hesitate to contact me if you have further questions.

Respectfully submitted,

Michele D Merritt

Michele Merritt, President, New Futures

Kirsten Koch

From: Andrew J. Manuse <amanuse@gmail.com>
Sent: Tuesday, May 4, 2021 12:22 AM
To: Kirsten Koch
Subject: HB 187

Hello Kirsten,

I support HB 187 as passed by the House, but oppose the Senate amendment. Your system would not allow me to register my support for the bill and opposition to the amendment. Please ask the Senate to not add more licensing law to NH and to kill a really excellent House bill in HB 187 by doing do. We really need HB 187 to pass as is, and adding the amendment will kill the bill. The DHHS has way too much power and some oversight is needed. HB 187 would add necessary oversight--frankly, more is needed than this bill offers.

Hon. Andrew J. Manuse
Derry, NH
603-703-8857

Kirsten Koch

From: Dan G. <deg121@comcast.net>
Sent: Wednesday, May 5, 2021 12:50 PM
To: Kirsten Koch
Subject: HB 187

Hello,

I am a little late as the hearing was this morning. I ask the committee support HB 187 without the Senate amendment.

HB 187 provides much needed oversight and restrictions on the emergency powers of NH-DHHS. The amendment adds licensing and barriers to entry which are not needed.

thanks,
Dan Groves
Merrimack, NH

Kirsten Koch

From: Donald Pfundstein <pfundstein@gcglaw.com>
Sent: Tuesday, May 4, 2021 3:57 PM
To: Kirsten Koch
Subject: HB 187 Amendment

Follow Up Flag: Follow up
Flag Status: Flagged

Hey Kristen,
I registered to speak tomorrow on the amendment to HB 187 on behalf of AHIP in Senate Health. However, the field would not populate to the amendment at 9:30 even though on the menu.....it is the amendment though on which I wish to speak....neutral on bill.....sort of!
Thanks Donald

Donald J. Pfundstein, Esquire

GALLAGHER CALLAHAN & GARTRELL

214 N. Main Street
Concord, New Hampshire 03301
Direct: 603-545-3600
Follow me: @DonPfundstein
http://www.gcglaw.com/attorneys/pfundstein.html

Kirsten Koch

From: Elizabeth Surman <hellolibby@comcast.net>
Sent: Tuesday, May 4, 2021 9:25 AM
To: Kirsten Koch
Subject: HB 187

I support the bill but not the amendment.

Thank you,
Libby

Kirsten Koch

From: Jennifer Tuttle <mom4ever81@gmail.com>
Sent: Tuesday, May 4, 2021 9:01 PM
To: Kirsten Koch

Follow Up Flag: Follow up
Flag Status: Flagged

I would like to send my support as a Member of the public for this Bill HB187, but not the amendment. We need the checks and balances for sure so we can eliminate all the past and current overreach of powers, but I do not agree with the addition licensing requirements. I do NOT support the Amendment at all. Please take my opinion into consideration on this matter.

Thank you

Kirsten Koch

From: johncaw@myfairpoint.net
Sent: Tuesday, May 4, 2021 9:44 AM
To: Kirsten Koch
Subject: HB 187

Dear committee members,

I am writing you in support of HB 187.
I feel that HB 187 it is necessary in order to have legislative checks on the commissioner of the Department of Health and Human Services to prevent them from unilaterally implementing emergency regulations without legislative oversight or approval.
Our system of government requires checks and balances to operate in a manner the best benefits us all and HB 187 would provide those check and balances.
While I support HB 187, I do not support the proposed senate amendment and I ask that you reject that portion of the bill and pass HB 187 without the proposed amendment.

Respectfully,

John Cawthron
Nashua, NH

Kirsten Koch

From: Kristine Stoddard <kstoddard@bistatepca.org>
Sent: Tuesday, May 4, 2021 8:25 PM
To: Kristine Stoddard
Subject: HB 187 and amendment 2021-1242s

Dear Chairman Bradley and Members of the Senate Health and Human Services Committee:

I write to you regarding HB 187 and the proposed amendment 2021-1242s. I apologize that I am unable to join your committee hearings this session due to childcare issues. Bi-State Primary Care Association and our members ask for your support of the proposed amendment to HB 187 for the reasons outlined below.

Bi-State Primary Care Association is a non-profit organization that works to expand access to primary and preventive care for all New Hampshire residents with a special emphasis on the medically underserved. Bi-State also represents New Hampshire's community health centers, which are located in areas of the state with limited access to health care services, and the Area Health Education Centers, which work to increase the health care workforce pipeline from middle schoolers to adults. New Hampshire's community health centers are non-profit organizations that provide integrated substance use disorder treatment, behavioral health, primary care, reproductive health services, and oral health services to nearly 120,000 patients, including 1 in 5 of *all* Granite Staters enrolled in the Medicaid program. In some areas of our beautiful state, community health centers are the only providers of health care services (Coos County Family Health Services in Berlin and Gorham is a good example of this). New Hampshire's Area Health Education Centers use limited federal grants and foundation funding to increase access to care by enhancing the health and public health workforce of the state through school programs, current workforce trainings, and continued education.

Since 2014, the health centers have seen a dramatic increase for the behavioral health and substance use disorder services they provide. Here are a few highlights:

- 98% increase in the number of patients treated for substance use disorder
- 388% increase in the number of office visits provided for substance use disorder treatment
- 130% increase in the number of patients receiving behavioral health services
- 234% increase in the number of behavioral health appointments

As you know, the health care workforce shortage in New Hampshire has grown due to the pandemic. Our health centers continue to report difficulty in recruiting staff, but behavioral health and substance use disorder treatment providers especially. The proposed amendment will increase the health care workforce pipeline by reducing barriers to licensure by creating licensed social workers and licensed social work associates (please see section 5-6). New Hampshire is one of a handful of states that limits licensure of social workers to individuals who have achieved a master of social work. Advanced degrees are time intensive and expensive, limiting the applicants and graduates of those programs. Also, limiting licensure to only social workers with masters degrees reduces the number and the types of providers that health care organizations can receive reimbursement for. It is difficult for health care organizations to support a staff person providing services to their patients if those providers are not eligible to receive reimbursement for those services. Amendment 2021-1242s will expand the individuals eligible for licensure, and hopefully in turn, increase the number of providers community health centers and others organizations can bill and receive reimbursement for.

We also support sections 7 and 8 of the amendment as they clarify and codify current practice. Section 7 of the amendment clarifies that community mental health centers, community substance use disorder treatment programs, and community health centers are included in the definition of "facility" in RSA Section 420-J:3.

Community health centers are not required to obtain facility licenses from the State of New Hampshire and instead are regulated by the Health Resources and Services Administration. We believe the wording of RSA 420-J:3 related to "*other licensed*" facilities leads to confusion during the credentialing process because CHCs are not licensed by the State. I surveyed as many of our health centers as I could before the hearing and two confirmed that they are credentialed by commercial carriers as facilities. Including CHCs in the definition of "facility" simply clarifies the existing language: '"Facility" means an institution providing health care services or a health care setting, *including but not limited to*' and will eliminate confusion during the credentialing and subsequent reimbursement process.

For more information on New Hampshire's community health centers and the AHECs, please see our NH Primary Care Sourcebook.

Again, thank you for your continued support of the health centers, their staff, and most importantly, their patients. Please feel free to contact me by email or cell phone (480-794-0523) if you have any questions.

Take care,

Kristine E. Stoddard, Esq.
NH Director of Public Policy
Bi-State Primary Care Association
525 Clinton Street, Bow, NH 03304
Office: 603-228-2830. ext. 113
Cell: 480-794-0523
kstoddard@bistatepca.org



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Kirsten Koch

From: Susan Paschell <spaschell@dupontgroup.com>
Sent: Tuesday, May 4, 2021 5:09 PM
To: Kirsten Koch
Cc: Jay Couture (jcouture@smhc-nh.org); Jim Monahan; Maggie Pritchard (E-mail)
Subject: HB 187 amendment

Follow Up Flag: Follow up
Flag Status: Completed

Hello Kirsten –
On behalf of the NH Community Behavioral Health Association (CBHA), I signed in just now on HB 187, which has hearings noticed for tomorrow morning at 9:15 and 9:30; however, the site didn't allow me to sign in for 9:30 AM when the amendment is being heard. It only allowed me to sign in for 9:15, when the underlying bill is being heard. Can you please make sure that the record shows that CBHA is in support of the amendment?
Thank you,
Susan Paschell

Sent from Mail for Windows 10

Kirsten Koch

From: Tom Luther <origamikerf@icloud.com>
Sent: Tuesday, May 4, 2021 10:17 AM
To: Kirsten Koch
Subject: HB 187, support

With the proviso that I do not support the senate amendment requiring licensure. NH is far too regulatory of health care already and adding to the credential burden does more harm to state citizens.

tom luther
claremont

Voting Sheets

Senate Health and Human Services Committee
EXECUTIVE SESSION RECORD
2021-2022 Session

Bill # HB 187

Hearing Date: 5/5/21

Executive Session Date: 5/12/21

Motion: Amendment 1394s w/changes **Vote:** 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Bradley, Chair	X		X	X	
Sen. Gray, Vice Chair	X	X		X	
Sen. Avard	X			X	
Sen. Sherman	X			X	
Sen. Whitley	X			X	

Motion: OTPA **Vote:** 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Bradley, Chair	X			X	
Sen. Gray, Vice Chair	X		X	X	
Sen. Avard	X			X	
Sen. Sherman	X	X		X	
Sen. Whitley	X			X	

Motion: Consent Calendar **Vote:** 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Bradley, Chair	X			X	
Sen. Gray, Vice Chair	X			X	
Sen. Avard	X			X	
Sen. Sherman	X	X		X	
Sen. Whitley	X		X	X	

Motion: _____ **Vote:** _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Bradley, Chair					
Sen. Gray, Vice Chair					
Sen. Avard					
Sen. Sherman					
Sen. Whitley					

Reported out by: Sen. Bradley

Notes: Changes to 3 members of the Senate

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE
FOR THE CONSENT CALENDAR

Thursday, May 13, 2021

THE COMMITTEE ON Health and Human Services

to which was referred **HB 187**

AN ACT relative to the emergency powers of the commissioner of health and human services and relative to the membership of the oversight committee on health and human services.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 5-0

AMENDMENT # 1444s

Senator Jeb Bradley
For the Committee

This bill makes various changes to the powers of the commissioner of the department of health and human services during a public health emergency; authorizes the joint legislative oversight committee on health and human services to review, and rescind by a 2/3 vote, emergency orders issued by the commissioner; gives a person subject to a treatment order for a communicable disease a right to a hearing on the order; and amends the membership and duties of the ethics oversight advisory committee. The bill also amends the house membership on the health and human services oversight committee. As amended, the health and human services oversight committee may not vote to sponsor a joint resolution to rescind the emergency order. It is essential for the department to be able to issue emergency orders to protect the public during public health emergencies. Additionally, the amendment restores the senate membership to three members on the health and human services oversight committee.

Kirsten Koch 271-3266

FOR THE CONSENT CALENDAR

HEALTH AND HUMAN SERVICES

HB 187, relative to the emergency powers of the commissioner of health and human services and relative to the membership of the oversight committee on health and human services.
Ought to Pass with Amendment, Vote 5-0.
Senator Jeb Bradley for the committee.

This bill makes various changes to the powers of the commissioner of the department of health and human services during a public health emergency; authorizes the joint legislative oversight committee on health and human services to review, and rescind by a 2/3 vote, emergency orders issued by the commissioner; gives a person subject to a treatment order for a communicable disease a right to a hearing on the order; and amends the membership and duties of the ethics oversight advisory committee. The bill also amends the house membership on the health and human services oversight committee. As amended, the health and human services oversight committee may not vote to sponsor a joint resolution to rescind the emergency order. It is essential for the department to be able to issue emergency orders to protect the public during public health emergencies. Additionally, the amendment restores the senate membership to three members on the health and human services oversight committee.

General Court of New Hampshire - Bill Status System

Docket of HB187

Docket Abbreviations

Bill Title: (New Title) relative to the emergency powers of the commissioner of health and human services and relative to the membership of the oversight committee on health and human services.

Official Docket of **HB187.:**

Date	Body	Description
1/4/2021	H	**Introduced** (in recess of) 01/06/2021 and referred to Health, Human Services and Elderly Affairs **HJ 2** P. 38
1/20/2021	H	Public Hearing: 02/01/2021 09:45 am Members of the public may attend using the following link: To join the webinar: https://www.zoom.us/j/96551569054 / Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened.
2/3/2021	H	Committee Report: Ought to Pass with Amendment **#2021-0161h** (Vote 19-2; RC) **HC 12** P. 21
2/24/2021	H	Amendment **#2021-0161h**: AA VV 02/24/2021 **HJ 3** P. 65
2/24/2021	H	**Ought to Pass with Amendment** : MA **RC** 333-6 02/24/2021 **HJ 3** P. 65
2/24/2021	H	Referred to Executive Departments and Administration 02/24/2021 **HJ 3** P. 65
3/15/2021	H	Public Hearing: 03/15/2021 10:00 am Please click the link below to join the webinar: https://zoom.us/j/94033090497 Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened.
4/1/2021	H	Committee Report: Ought to Pass with Amendment **#2021-0952h** (Vote 17-1; CC) **HC 18** P. 12
4/7/2021	H	Amendment **#2021-0952h**: AA VV 04/07/2021 **HJ 5** P. 22
4/7/2021	H	**Ought to Pass with Amendment** 2021-0952h: MA VV 04/07/2021 **HJ 5** P. 22
4/7/2021	H	Reconsider (Rep. Osborne): MF VV 04/07/2021 **HJ 5** P. 50
4/7/2021	S	Introduced 04/01/2021 and Referred to Health and Human Services; **SJ 11**
4/29/2021	S	Remote **Hearing:** 05/05/2021, 09:15 am; Links to join the hearing can be found in the Senate Calendar; **SC 22**
4/29/2021	S	Remote **Hearing:** 05/05/2021, 09:30 am, on proposed amendment **#2021-1242s**; Links to join the hearing can be found in the Senate Calendar; **SC 22**
5/13/2021	S	Committee Report: Ought to Pass with Amendment **#2021-1444s**, 05/20/2021; Vote 5-0; CC; **SC 24**
5/20/2021	S	Committee Amendment **#2021-1444s**, AA, VV; 05/20/2021; **SJ 16**
5/20/2021	S	**Ought to Pass with Amendment** 2021-1444s, MA, VV; OT3rdg; 05/20/2021; **SJ 16**
6/7/2021	H	House Non-Concurs with Senate Amendment 2021-1444s and Requests CofC (Reps. M. Pearson, Acton, McGuire, P. Schmidt): MA VV 06/04/2021 **HJ 9** P. 51
6/8/2021	H	Conferee Change: Rep. Weber Replaces Rep. P. Schmidt 06/04/2021 **HJ 9** P. 53
6/8/2021	H	Conferee Change: Rep. S. Pearson Replaces Rep. McGuire 06/04/2021 **HJ 9** P. 53

6/10/2021	S	Sen. Bradley Accedes to House Request for Committee of Conference, MA, VV; 06/10/2021; **SJ 19**
6/10/2021	S	President Appoints: Senators Gray, Bradley, Sherman; 06/10/2021; **SJ 19**
6/10/2021	H	==RECESSED== Conference Committee Meeting: 06/14/2021 09:00 am LOB 301-303
6/15/2021	H	==RECESSED== Conference Committee Meeting: 06/15/2021 10:30 am LOB 301-303
6/17/2021	H	==CONTINUED== Conference Committee Meeting: 06/17/2021 09:00 am LOB 301-303
6/17/2021	S	Conference Committee Report Filed, **#2021-2036c**; 06/24/2021
6/24/2021	S	Conference Committee Report **#2021-2036c**, Adopted, VV; 06/24/2021; **SJ 20**
6/24/2021	H	Conference Committee Report 2021-2036c: Adopted, VV 06/24/2021
7/28/2021	S	Enrolled Adopted, VV, (In recess 06/24/2021); **SJ 20**
7/28/2021	H	Enrolled (in recess of) 06/24/2021
8/16/2021	H	Law Without Signature 08/11/2021; Chapter 211; Eff: 08/11/2021

NH House	NH Senate

Other Referrals

June 17, 2021
2021-2036-CofC
04/05

Committee of Conference Report on HB 187, relative to the emergency powers of the commissioner of health and human services and relative to the membership of the oversight committee on health and human services.

Recommendation:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend RSA 21-P:53, VIII and IX as inserted by section 1 of the bill by replacing them with the following:

VIII. As soon as practicable, the commissioner shall notify the speaker of the house of representatives, the senate president, the chair of the house committee on health, human services and elderly affairs and the chair of the senate committee on health and human services of the impending issuance of emergency orders under this section and provide a description of such orders.

IX. The legislature may terminate an emergency order issued under this chapter by a majority vote of both the senate and the house of representatives. A majority vote shall consist of a majority of members present and voting in each chamber acting separately. The commissioner's power to renew an emergency order under this chapter shall terminate upon a majority vote of both chambers under this section; provided, however, that such vote shall not preclude the commissioner from issuing a new emergency order during the state of emergency for different circumstances.

The signatures below attest to the authenticity of this Report on HB 187, relative to the emergency powers of the commissioner of health and human services and relative to the membership of the oversight committee on health and human services.

Conferees on the Part of the Senate

Sen. Gray, Dist. 6

Sen. Bradley, Dist. 3

Sen. Sherman, Dist. 24

Conferees on the Part of the House

Rep. M. Pearson, Rock. 34

Rep. Acton, Rock. 10

Rep. S. Pearson, Rock. 6

Rep. Weber, Ches. 1

Senate Inventory Checklist for Archives

Bill Number: HB 187 **Senate Committee:** HHS

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

X Final docket found on Bill Status

Bill Hearing Documents: {Legislative Aides}

X Bill version as it came to the committee

X All Calendar Notices

X Hearing Sign-up sheet(s)

X Prepared testimony, presentations, & other submissions handed in at the public hearing

X Hearing Report HB 187 + Amendment #2021-1242s

___ Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: {Legislative Aides}

All amendments considered in committee (including those not adopted):

X - amendment # 2021-1444s X - amendment # 2021-1242s Bradley, Gray, Avard, Whitley, and Sherman

___ - amendment # _____ X - amendment # 2021-1394s Bradley

___ Executive Session Sheet

X Committee Report

Floor Action Documents: {Clerk's Office}

All floor amendments considered by the body during session (only if they are offered to the senate):

___ - amendment # _____ ___ - amendment # _____

___ - amendment # _____ ___ - amendment # _____

Post Floor Action: (if applicable) {Clerk's Office}

X Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference): 2036

___ Enrolled Bill Amendment(s)

___ Governor's Veto Message

All available versions of the bill: {Clerk's Office}

X as amended by the senate ___ as amended by the house

X final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Kirsten Koch 7/20/21

Committee Aide **Date**

Senate Clerk's Office AK