HB 241-FN - AS INTRODUCED

2025 SESSION

25-0358
05/08

HOUSE BILL ***241-FN***

AN ACT relative to treatment alternatives to opioids.

SPONSORS: Rep. Nagel, Belk. 6; Rep. T. Dolan, Rock. 16; Rep. Lundgren, Rock. 16; Rep. Palmer, Sull. 2

COMMITTEE: Health, Human Services and Elderly Affairs

ANALYSIS

This bill requires insurance coverage for certain pain management therapies prescribed as alternatives to treatment with opioids.

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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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

25-0358
05/08

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT relative to treatment alternatives to opioids.

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

1 Statement of Findings and Purpose.

I. The general court recognizes the following:

(a) The causes of the opioid crisis are complex and multifactorial.

(b) One of the major causes was the failure of the health care system, as a whole, to provide meaningful access to a broad range of non-opioid, non-interventional evidence-based therapies including complimentary alternative medicine provided by licensed professionals as either single modality therapy or integrative care for those who suffer from acute, chronic, and/or end of life pain.

(c) Executive and legislative entities both at the federal and state level pursued public health polices to combat the crisis which, in effect, abandoned those in pain, particularly those on opioid therapies, by creating barriers to opioid therapy without creating access to non-opioid therapies resulting in unnecessary and extensive morbidity and mortality for those patients.

(d) While government based and commercial insurers do provide some access to these therapies, the availability is limited and insufficient to address the scope of the problem.

(e) While the litmus test for what therapies should be made available is evidence-based, it is concerning that a double standard is used between therapies provided by allopathic and non-allopathic providers in determining strength of evidence required, and this double standard unfairly favors allopathic providers.

II. The purpose of this act is to both increase access to these therapies in a cost-effective, evidence-based manner in the commercial insurance market and to level the evidence-based standards used in deciding which therapies should be available.

2 New Section; Accident and Health Insurance; Coverage for Pain Management Services; Individual Coverage. Amend RSA 415 by inserting after section 6-a1 the following new section:

415:6-bb Coverage for Pain Management Services.

I. Each insurer that issues or renews any individual policy, plan or contract of accident or health insurance providing benefits for medical or hospital expenses shall provide to persons covered by such insurance who are residents of this state coverage for a broad spectrum of pain management services by providers practicing in a licensed profession, in addition to currently covered pharmacologic and interventionalist treatments. Such services shall include:

(a) Behavioral health interventions, including but not limited to pain self-management training, cognitive behavioral therapy (CBT), acceptance and commitment therapy (ACT), mindfulness and/or other meditation training, support groups, and pain education.

(b) Manual treatments, including, but not limited to: chiropractic treatment of spine, peripheral joints, and soft tissues; osteopathic manipulation of joints and tissues; and massage therapy and manual physical therapy treatments.

(c) Movement therapies, including, but not limited to therapeutic exercises administered by physical therapists and chiropractors.

(d) Acupuncture.

(e) Massage therapy.

II. Policies issued or renewed pursuant to this section shall provide for at least 12 visits for each of the preceding categories of pain management services and shall include coverage for coordination of pain management services during the plan year for each of the preceding pain management services to manage pain by the policy holder's beneficiaries' licensed providers to ensure that the provided services are both well integrated and multi-modal.

III. Each insurer that issues or renews any individual policy, plan or contract of accident or health insurance providing benefits for medical or hospital expenses shall produce and submit to the insurance commissioner for approval a comprehensive pain services management plan which shall contain a description of the covered pain management services in accordance with rules adopted by the insurance commissioner under RSA 541-A. Upon approval by the insurance commissioner, the insurers shall promptly post their pain management services plan approved by the insurance commissioner and detailed descriptions of covered services to their public websites in an easily accessible location.

IV. Each insurer that issues or renews any individual policy, plan or contract of accident or health insurance providing benefits for medical or hospital expenses shall provide with each renewed or issued policy of health insurance, educational materials to policy holder beneficiaries and all in-network providers of pain management services. Educational materials shall include pain self-management information and a description of the full range of pharmacological and non-pharmacological methods and treatments for managing pain, including those methods and treatments covered by the insurer's pain management plan.

V. No insurer shall establish utilization controls, including prior authorization or step therapy requirements, for clinically appropriate nonopioid therapies, medicinal drugs or drug products approved by the federal Food and Drug Administration for the treatment or management of pain that are more restrictive or extensive than the least restrictive or extensive utilization controls applicable to any clinically appropriate opioid drug.

VI. In this section:

(a) "Pain" means an unpleasant sensory and emotional experience associated with, or resembling that associated with, actual or potential tissue damage.

(b) "Pain management services plan" means a comprehensive written plan by insurers for provision of pain management services.

(c) "Pain management services" mean a broad spectrum of pain relief services and treatments for residents of this state experiencing pain.

(d) "Pain education" means education aimed at understanding the neuroscience of pain, the biopsychosocial nature of pain, and the rationale for use of diverse approaches to effectively manage pain.

(e) "Self-management training" means training that engages patients in self-regulation of physical, cognitive, and emotional processes to reduce pain and improve function.

(f) "Multi-modal" means utilization of a number of diverse approaches expected to have a synergistic or complementary effect in achieving effective pain management.

3 New Section; Accident and Health Insurance; Coverage for Pain Management Services; Group. Amend RSA 415 by inserting after section 18-gg the following new section:

415:18-hh Coverage for Pain Management Services.

I. Each insurer that issues or renews a policy of group or blanket accident or health insurance providing benefits for medical or hospital expenses shall provide to persons covered by such insurance who are residents of this state coverage for a broad spectrum of pain management services by providers practicing in a licensed profession, in addition to currently covered pharmacologic and interventionalist treatments. Such services shall include:

(a) Behavioral health interventions, including but not limited to pain self-management training, cognitive behavioral therapy (CBT), acceptance and commitment therapy (ACT), mindfulness and/or other meditation training, support groups, and pain education.

(b) Manual treatments, including, but not limited to: chiropractic treatment of spine, peripheral joints, and soft tissues; osteopathic manipulation of joints and tissues; and massage therapy and manual physical therapy treatments.

(c) Movement therapies, including, but not limited to therapeutic exercises administered by physical therapists and chiropractors, independent therapeutic exercise, aquatic therapy, yoga, qi gong, and tai chi.

(d) Acupuncture.

(e) Massage Therapy

II. Policies issued or renewed pursuant to this section shall provide for at least 12 visits for each of the preceding pain management categories and shall include coverage for coordination of pain management services during the plan year for each of the preceding pain management services to manage pain by the policy holder's beneficiaries' licensed providers to ensure that the provided services are both well integrated and multi-modal.

III. Each insurer that issues or renews any policy of group or blanket accident or health insurance providing benefits for medical or hospital expenses shall produce and submit to the insurance commissioner for approval a comprehensive pain services management plan which shall contain a description of the covered pain management services in accordance with rules adopted by the insurance commissioner under RSA 541-A. Upon approval by the insurance commissioner, the insurers shall promptly post their pain management services plan approved by the insurance commissioner and detailed descriptions of covered services to their public websites in an easily accessible location.

IV. Each insurer that issues or renews any policy of group or blanket accident or health insurance providing benefits for medical or hospital expenses shall provide with each renewed or issued policy of health insurance, educational materials to policy holder beneficiaries and all in-network providers of pain management services. Educational materials shall include pain self-management information and a description of the full range of pharmacological and non-pharmacological methods and treatments for managing pain, including those methods and treatments covered by the insurer's pain management plan.

V. No insurer shall establish utilization controls, including prior authorization or step therapy requirements, for clinically appropriate nonopioid therapies, medicinal drugs or drug products approved by the federal Food and Drug Administration for the treatment or management of pain that are more restrictive or extensive than the least restrictive or extensive utilization controls applicable to any clinically appropriate opioid drug.

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(d) "Pain education" means education aimed at understanding the neuroscience of pain, the biopsychosocial nature of pain, and the rationale for use of diverse approaches to effectively manage pain.

(e) "Self-management training" means training that engages patients in self-regulation of physical, cognitive, and emotional processes to reduce pain and improve function.

(f) "Multi-modal" means utilization of a number of diverse approaches expected to have a synergistic or complementary effect in achieving effective pain management.

4 Health Services Corporations; Applicable Statutes. Amend RSA 420-A:2 to read as follows:

420-A:2 Applicable Statutes. Every health service corporation shall be governed by this chapter and the relevant provisions of RSA 161-H, and shall be exempt from this title except for the

provisions of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415-A, RSA 415-F, RSA 415:6, II(4), RSA 415:6-g, RSA 415:6-k, RSA 415:6-m, RSA 415:6-o, RSA 415:6-r, RSA 415:6-t, RSA 415:6-u, RSA 415:6-v, RSA 415:6-w, RSA 415:6-x, RSA 415:6-y, RSA 415:6-z, RSA 415:6-a1, ***RSA 415:6-bb,*** RSA 415:18, V, RSA 415:18, XVI and XVII, RSA 415:18, VII-a, RSA 415:18-a, RSA 415:18-i, RSA 415:18-j, RSA 415:18-o, RSA 415:18-r, RSA 415:18-t, RSA 415:18-u, RSA 415:18-v, RSA 415:18-w, RSA 415:18-y, RSA 415:18-z, RSA 415:18-aa, RSA 415:18-bb, RSA 415:18-cc, RSA 415:18-dd, RSA 415:18-ee, RSA 415:18-ff, ***RSA 415:18-gg, RSA 415:18-hh,*** RSA 415:22, RSA 417, RSA 417-E, RSA 420-J, and all applicable provisions of title XXXVII wherein such corporations are specifically included. Every health service corporation and its agents shall be subject to the fees prescribed for health service corporations under RSA 400-A:29, VII.

5 Health Maintenance Organizations; Statutory Construction. Amend RSA 420-B:20, III to read as follows:

III. The requirements of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415:6-g, RSA 415:6-m, RSA 415:6-o, RSA 415:6-r, RSA 415:6-t, RSA 415:6-u, RSA 415:6-v, RSA 415:6-w, RSA 415:6-x, RSA 415:6-y, RSA 415:6-z, RSA 415:6-a1, ***RSA 415:6-bb,*** RSA 415:18, VII-a, RSA 415:18, XVI and XVII, RSA 415:18-i, RSA 415:18-j, RSA 415:18-r, RSA 415:18-t, RSA 415:18-u, RSA 415:18-v, RSA 415:18-w, RSA 415:18-y, RSA 415:18-z, RSA 415:18-aa, RSA 415:18-bb, RSA 415:18-cc, RSA 415:18-dd, RSA 415:18-ee, RSA 415:18-ff, ***RSA 415:18-gg, RSA 415:18-hh,*** RSA 415-A, RSA 415-F, RSA 420-G, and RSA 420-J shall apply to health maintenance organizations.

6 Effective Date. This act shall take effect July 1, 2025.

LBA
25-0358
12/12/24

HB 241-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to treatment alternatives to opioids.

FISCAL IMPACT: This bill does not provide funding, nor does it authorize new positions.

Estimated State Impact				
	FY 2025	**FY 2026**	**FY 2027**	**FY 2028**
Revenue	$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Revenue Fund(s)	General Fund Insurance Premium Tax			
Expenditures*	$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source(s)	General Fund and Various Agency Funds			
Appropriations*	$0	$0	$0	$0
Funding Source(s)	None			

***Expenditure = Cost of bill** ***Appropriation = Authorized funding to cover cost of bill**

Estimated Political Subdivision Impact				
	FY 2025	**FY 2026**	**FY 2027**	**FY 2028**
County Revenue	$0	$0	$0	$0
County Expenditures	$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Local Revenue	$0	$0	$0	$0
Local Expenditures	$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

METHODOLOGY:

The Insurance Department states this bill would amend current law by expanding health insurance coverage requirements for pain management services beyond currently covered "standard" or "conventional" treatments. This includes adding coverage for services such as mindfulness or meditation training, pain education, massage therapy, yoga, Tai Chi, Qi Gong, movement therapy and acupuncture. All of the listed services would be covered for a minimum of 12 visits, and the coordination of benefits would be managed by the licensed provider(s) delivering the respective service(s). The bill would apply to individual (RSA 415:6) and group and blanket (RSA 415:18) accident and health policies issued in New Hampshire by health insurance companies, health service corporations, and health maintenance organizations.

Since a number of previously non-covered services would now be covered, this proposal would represent an expansion of required health benefits, and as such, may result in increased claims costs, increased premiums and premium tax revenue. To the extent that the coverages required in this bill are applicable to health benefits offered by state, county and local government entities, this would represent an indeterminable increase in state, county and local expenditures.

The bill would require insurers submit to the Insurance Commissioner a comprehensive pain management services plan for his or her approval. Upon approval, this plan must be promptly posted to the insurer's website. The information disseminated to plan beneficiaries must include a list and description of covered pharmacologic and non-pharmacologic pain management treatment therapies available to policyholders. The Insurance Department expects a negligible impact to premiums, and thus, premium tax revenues directly attributable to this requirement. However, the Department does not have staff qualified to review medical guidelines and would need to hire a consultant to assist with this review and with promulgating rules. The Department estimates it would need an additional $250,000 per year to retain the appropriate consultants.

The bill also adds a provision requiring insurers to ensure an adequate supply of licensed practitioners for each type of covered pain management services without unreasonable burden or delay. This parallels the current network adequacy requirement in the Department's administrative rule Ins 2701 which requires that covered persons will have access to covered health care services without unreasonable delay. There does not appear to be an oversight mechanism to ensure that this provision is met and it is foreseeable that insurers would encounter a credentialing issue and be unable to credential certain providers in accordance with RSA 420-J:4. This may result in delays of care delivery and perhaps limit the ability for insurers to comply with network adequacy requirements.

Under federal regulation at CFR Section 155.170, passage of the bill would likely be considered a state action to add a health benefit which is above or in addition to the Essential Health Benefits offered in the Exchange Marketplace. Under this regulation, the state must make payments to the Federal government to defray the cost of the additional required benefits to Qualified Health Plan enrollees or to QHP issuers. This would represent a general fund expense which is indeterminable at this time. The Centers for Medicare and Medicaid Services (CMS) encourages states to reach out to CMS concerning any state defrayal questions in advance of passing and implementing benefit mandates and to provide QHP issuers in the state ample time to quantify the cost attributable to each additional required benefit and report these calculations to the state. However, under RSA 400-A:39-b, the legislative committee having jurisdiction over this bill may refer the proposed mandated coverage to the Insurance Department which is authorized

to retain an external actuarial review of the costs and benefits of the proposed mandate. In this manner, a qualified opinion of the cost could be obtained. Historically, external review of the cost of coverage mandates costs the Department $20,000-$40,000.

If enacted, the bill would take effect on July 1, 2025. However, rates for plan year 2025 have already been set and cannot be changed. These rates do not account for additional covered services so the premium collected may be inadequate to cover potential claims which could cause a financial impact to the insurance companies.

AGENCIES CONTACTED:

Insurance Department