SB 149-FN - AS AMENDED BY THE SENATE

03/18/2021 0788s
04/01/2021 1055s

2021 SESSION

21-1074
10/04

SENATE BILL ***149-FN***

AN ACT adopting omnibus legislation on health and human services.

SPONSORS: Sen. Sherman, Dist 24

COMMITTEE: Health and Human Services

AMENDED ANALYSIS

This bill adopts legislation relative to:

I. Clarifying Medicaid spend-down requirements and requiring a report to the oversight committee on health and human services.

II. Automated pharmacy systems.

III. Health facilities providing care in the declared emergency.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT adopting omnibus legislation on health and human services.

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

1 Sponsorship. This act consists of the following proposed legislation:

Part I. LSR 21-0427, clarifying Medicaid spend-down requirements and requiring a report to the oversight committee on health and human services, sponsored by Sen. Rosenwald, Prime/Dist 13; Sen. Hennessey, Dist 1; Sen. Whitley, Dist 15; Sen. Sherman, Dist 24; Sen. Bradley, Dist 3; Rep. Guthrie, Rock. 13; Rep. McMahon, Rock. 7; Rep. Marsh, Carr. 8; Rep. Knirk, Carr. 3; Rep. Mullen, Hills. 7.

Part II. LSR 21-0936, relative to automated pharmacy systems, sponsored by Sen. Carson, Prime/Dist 14.

Part III. LSR 21-1006, relative to health facilities providing care in the declared emergency, sponsored by Sen. Gray, Prime/Dist 6.

2 Legislation Enacted. The general court hereby enacts the following legislation:

PART I

Clarifying Medicaid spend-down requirements

and requiring a report to the oversight committee on health and human services.

1 New Section; Spend-Down Requirements for Medical Expenses. Amend RSA 167 by inserting after section 4-d the following new section:

167:4-e Spend-down Requirements for Medical Expenses. For the purposes of off-setting the Medicaid spend-down requirements, mental health expenses shall be included as medical expenses.

2 Report to Oversight Committee on Health and Human Services.

I. The department of health and human services shall submit an interim report on or before October 1, 2021, to the oversight committee on health and human services, established pursuant to RSA 126-A:13, relative to actions taken to ensure the uniform application of spend-down requirements. The report shall include a description of how spend-down requirements were addressed in remedial staff training programs, updates to the policy manual, and updates to the brochure and any other department publications.

II. The department shall submit a final report by October 1, 2022, on the application of spend-down requirements. The report shall include data indicating how spend-down requirements have been applied since the interim report was filed.

3 Effective date. Part I of this act shall take effect upon its passage.

PART II

Relative to automated pharmacy systems.

1 New Section; Pharmacies; Automated Pharmacy Systems. Amend RSA 318 by inserting after section 42 the following new section:

318:42-a Automated Pharmacy Systems; Long-term Care Facilities, Hospices, or State Correctional Institutions.

I. A pharmacy may provide pharmacy services to a long-term care facility or hospice licensed under RSA 151 or to a state correctional institution through the use of an automated pharmacy system that need not be located at the same location as the pharmacy.

II. Medicinal drugs stored in bulk or unit of use in an automated pharmacy system servicing a long-term care facility, hospice, or correctional institution are part of the inventory of the pharmacy providing pharmacy services to that facility, hospice, or institution, and drugs delivered by the automated pharmacy system are considered to have been dispensed by that pharmacy.

III. The operation of an automated pharmacy system shall be under the supervision of a New Hampshire-licensed pharmacist. To qualify as a supervisor for an automated pharmacy system, the pharmacist need not be physically present at the site of the automated pharmacy system and may supervise the system data electronically. The New Hampshire-licensed pharmacist shall be required to develop and implement policies and procedures designed to verify that the medicinal drugs delivered by the automated dispensing system are accurate and valid and that the machine is properly restocked.

IV. This section is not intended to limit the current practice of pharmacy in this state. This section is intended to allow automated pharmacy systems to enhance the ability of a pharmacist to provide pharmacy services in locations that do not employ a full-time pharmacist. This section does not limit or replace the use of a consultant pharmacist.

V. The board shall adopt rules governing the use of an automated pharmacy system under this section, not later than January 1, 2022, which shall specify:

(a) Recordkeeping requirements;

(b) Security requirements; and

(c) Labeling requirements.

2 Effective Date. Part II of this act shall take effect 60 days after its passage.

PART III

Relative to health facilities providing care in the declared emergency.

1 New Section; Department of Safety; Homeland Security and Emergency Management; Novel Coronavirus Disease (COVID-19); Health Facilities. Amend RSA 21-P by inserting after section 42 the following new section:

21-P:42-a Novel Coronavirus Disease (COVID-19; Health Facilities. Acute care hospitals, assisted living facilities, long-term care facilities, nursing facilities, residential care facilities, ambulatory care clinics (as defined in RSA 151, RSA 151-A, RSA 151-D, RSA 151-E and RSA 151-H),

and any other similar facilities providing care to elderly or infirm patients ("health facilities"), and the employees, agents and volunteers of such health facilities, are deemed to have been engaged in preparing for and/or carrying out "emergency management" functions for the purposes of RSA 21-P:35 when complying, or reasonably attempting to comply, with any executive order, agency order or rule (including but not limited to waivers from the Centers for Medicare and Medicaid Services (CMS) both issued as blanket waivers by CMS and as requested by New Hampshire department of health and human services pertaining to the state of emergency declared under state and/or federal law in response to the Novel Coronavirus (COVID-19). All such orders and rules are deemed to constitute orders and/or rules adopted and/or regulations promulgated pursuant to RSA 21-P. Accordingly, no such organization or person shall be liable for the death of or injury to persons, or for damage to property, as a result of such compliance or reasonable attempts to comply with such an emergency order or rule under this section. This section shall not apply to actions of health care facilities, employees, agents, or volunteers of such facilities that are not related to compliance or reasonable attempts at compliance with an emergency order or rule. This section shall not apply to actions performed after such an emergency order or rule is no longer in effect.

2 Effective Date. Part III of this act shall take effect upon its passage.

LBA
21-1074
Amended 4/21/21

SB 149-FN- FISCAL NOTE

AS AMENDED BY THE SENATE (AMENDMENTS #2021-0788s and #2021-1055s)

AN ACT adopting omnibus legislation on health and human services.

Part I Clarifying Medicaid spend-down requirements and requiring a report to the oversight committee on health and human services.

Part I of the proposed legislation clarifies Medicaid spend-down requirements and requires the Department of Health and Human Services report to the Committee on Health and Human Services. The Department of Health and Human Services states that Part I will have no fiscal impact.

Part II Relative to automated pharmacy systems.

FISCAL IMPACT: [X] State [ ] County [ ] Local [ ] None

	Estimated Increase / Decrease			
STATE:	**FY 2021**	**FY 2022**	**FY 2023**	**FY 2024**
Appropriation	$0	$0	$0	$0
Revenue	$0	$0	$0	$0
Expenditures	Indeterminable	Indeterminable	Indeterminable	Indeterminable
Funding Source:	[ ] General	[ ] Education	[ ] Highway	[X] Other

Part II of the proposed legislation would automate pharmacy systems.

The Office of Professional Licensure states that the fiscal impact of Part II is indeterminable as it is not clear how many automated pharmacy systems will be established. Pharmacy inspectors will have to inspect automated pharmacy systems, taking 45 minutes to an hour to inspect each unit, excluding travel time. The inspector will need to review records concerning replenishment, delivery, discrepancy reports, temperature log review, training, and certification of staff, as well as numerous policies. Additional licensing revenue will not be generated as an additional permit or license is not required by this bill.

Part III Relative to health facilities providing care in the declared emergency.

Part III of the proposed legislation provides that acute care hospitals, assisted living facilities, long-term care facilities, and other similar facilities providing care to elderly or infirm patients,

and the employees, agents, and volunteers of such health facilities, are deemed to have been engaged in preparing for and carrying out emergency management functions when taking actions to comply with any executive order, agency order, or rule pertaining to the state of emergency declared under state or federal law in response to the Novel Coronavirus Disease. The Department of Health and Human Services states that Part III will have no fiscal impact.

AGENCIES CONTACTED:

Department of Health and Human Services and Office of Professional Licensure and Certification