CHAPTER 249
HB 381-FN - FINAL VERSION

01/05/2022 2159s

2022 SESSION

21-0503
10/04

HOUSE BILL ***381-FN***

AN ACT relative to laboratory testing.

SPONSORS: Rep. Edwards, Rock. 4; Rep. Marsh, Carr. 8; Rep. Deshaies, Carr. 6

COMMITTEE: Health, Human Services and Elderly Affairs

ANALYSIS

This bill authorizes laboratory testing without a licensed medical practitioner's order. The bill adds rulemaking authority for the purposes of the bill.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to laboratory testing.

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

249:1 New Section; Health Facility Licensure; Laboratory Testing Without a Licensed Medical Practitioner's Order. Amend RSA 151 by inserting after section 12-b the following new section:

151:12-c Laboratory Testing Without a Licensed Medical Practitioner's Order.

I. In this section, "licensed medical practitioner" means a physician licensed under RSA 329, an advanced practice registered nurse licensed under RSA 326-B:18, or a physician assistant licensed under RSA 328-D.

II. A person may obtain any laboratory test from a clinical laboratory licensed pursuant to RSA 151:2, I(c) on a direct access basis without a request or authorization from a licensed medical practitioner if the laboratory offers that test to the public on a direct access basis.

III. If a laboratory test of a person is conducted by or under the supervision of a person other than a licensed medical practitioner, and not at the request or authorization of a licensed medical practitioner, any report of the test results shall be provided by the person conducting the test to the person who was the subject of the test. The report shall state in bold type that it is the responsibility of the person who was tested to arrange with a licensed medical practitioner for consultation and interpretation of the test results.

IV. A licensed medical practitioner's duty of care to a patient shall not include the responsibility to review or act on the laboratory test results of a patient if the licensed medical practitioner did not request or authorize the laboratory test. A licensed medical practitioner shall not be subject to liability or disciplinary actions for the failure to review or act on the results of a laboratory test of any patient if the licensed medical practitioner did not request or authorize the laboratory test.

V. A clinical laboratory shall not submit a claim for reimbursement from a third-party payor for any laboratory test conducted without a licensed medical practitioner's request or written authorization.

VI. This section shall not require that a laboratory test done on a direct access basis be covered by a health insurance plan authorized under RSA 415, a health maintenance organization authorized under RSA 420-B, or the medical assistance program operated pursuant to RSA 126-A:3, III.

VII. A laboratory test ordered under this section, regardless of test complexity, as defined under the Clinical Laboratory Improvement Amendments of 1988, shall be conducted by a laboratory that routinely participates in proficiency testing for such offered test in a program approved by the Centers for Medicare and Medicaid Services. This paragraph shall not be construed to mandate proficiency testing for a laboratory test if it is not available from any approved program.

VIII. A person under the care and custody of a New Hampshire county jail or department of corrections facility shall be excluded from the provisions of this section.

249:2 New Subparagraph; Health Facility Licensure; Rulemaking Added. Amend RSA 151:9, I by inserting after subparagraph (o) the following new subparagraph:

(p) Procedures for laboratories performing testing under RSA 151:12-c.

249:3 Effective Date. This act shall take effect January 1, 2023.

Approved: June 24, 2022
Effective Date: January 01, 2023