

Amendment to SB 676-FN

1 Amend the bill by replacing all after the enacting clause with the following:

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3 1 Statement of Intent. The purpose and intent of this legislation is to improve the health and
4 wellbeing of New Hampshire citizens by authorizing meaningful access by the department of health
5 and human services to data, including identifiable patient-level data or information, from the office
6 of professional licensure and certification, controlled drug prescription health and safety program,
7 for public health purposes including, but not limited to, public health evaluation, coordination of
8 health care, and for the delivery of critical services to address substance use disorders.

9 2 New Section; Department of Health and Human Services; Controlled Drug Prescription
10 Health and Safety Program Information; Confidentiality. Amend RSA 126-A by inserting after
11 section 5-e the following new section:

12 126-A:5-f Controlled Drug Prescription Health and Safety Program; Confidentiality.

13 I. In this section "office" means the office of professional licensure and certification,
14 established in RSA 310-A.

15 II. Information and data obtained by the department from the office, including identifiable
16 patient-level data or information, pursuant to RSA 318-B:34, is confidential, is not a public record or
17 otherwise subject to disclosure under RSA 91-A, is not subject to discovery, subpoena, or other
18 means of legal compulsion for release and shall not be shared with an agency or institution, except
19 as provided in RSA 318-B:34, or under this section.

20 III. The department, in consultation with the office, may release reports for analysis and
21 evaluation, statistical analysis, public research, public policy, and educational purposes, provided
22 that the information and the data within the reports is aggregated or otherwise de-identified. No
23 individual whose identifiable patient-level data or information was provided by the office to the
24 department shall be contacted, or subject to any action, by the department, directly or indirectly, on
25 the basis of such data or information.

26 IV.(a) The department shall enter into one or more reciprocal data sharing agreements with
27 the office to share prescription drug monitoring information for public health purposes including, but
28 not limited to, public health evaluation, coordination of health care, and for the delivery of critical
29 services to address substance use disorders. The office shall receive any final analyses or reports
30 made with shared data. Any proposed data sharing agreement between the office and the
31 department shall be reviewed by the advisory council for the controlled drug prescription health and
32 safety program, established under RSA 318-B:38, which may make recommendations to the office.

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1 The department may release studies with de-identified data, provided the release is authorized by
2 the data sharing agreement. The data sharing agreements shall include:

- 3 (1) The specific purpose of sharing data;
- 4 (2) A detailed description of the data sets that will be included;
- 5 (3) The criteria and procedures for the development of data sets;
- 6 (4) The criteria and procedures to ensure data security and destruction; and
- 7 (5) A proposed time frame in which the data will be used.

8 (b) Under no circumstances shall the data or information received by the department
9 pursuant to this section be copied or released by the department to any other person or entity, unless
10 the data or information is aggregated or otherwise de-identified.

11 3 Controlled Drug Prescription Health and Safety Program; Definitions. Amend RSA 318-B:31,
12 IV to read as follows:

13 IV. "Dispenser" means a person or entity who is lawfully authorized to deliver a schedule II-
14 IV controlled substance, ***and conduct medication reconciliation***, but does not include:

15 (a) A licensed hospital pharmacy ***under RSA 318*** that dispenses less than a 48-hour
16 supply of a schedule II-IV controlled substance from a hospital emergency department or that
17 dispenses for administration in the hospital;

18 (b) A practitioner, or other authorized person who administers such a substance;

19 (c) A wholesale distributor of a schedule II-IV controlled substance or its analog;

20 (d) A prescriber who dispenses less than a 48-hour supply of a schedule II-IV controlled
21 substance from a hospital emergency department to a patient; [ø]

22 (e) A veterinarian who dispenses less than a 48-hour supply of a schedule II-IV
23 controlled substance to a patient; ***or***

24 ***(f) A practitioner who neither prescribes nor dispenses and who is not actively***
25 ***working as a pharmacist within a New Hampshire licensed pharmacy licensed under RSA***
26 ***318 or New Hampshire health care facility licensed under RSA 151.***

27 4 New Paragraph; Controlled Drug Prescription Health and Safety Program Established.
28 Amend RSA 318-B:32 by inserting after paragraph I the following new paragraph:

29 I-a. The office may enter into agreements or contracts to facilitate the confidential sharing of
30 information relating to the prescribing and dispensing of schedule II-IV controlled substances, by
31 practitioners within the state and to establish secure connections between the program and a
32 practitioner's electronic health record keeping system. The electronic health record keeping system
33 may allow for the query and retrieval of program information for display and retention in the
34 patient's medical information; provided that nothing in this section shall allow the electronic health
35 record keeping system owner or license holder to perform data queries unrelated to individuals
36 under the practitioner's care. The electronic health record keeping system owner or license holder
37 shall be responsible for ensuring that only authorized individuals have access to program

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1 information.

2 5 New Paragraph; Controlled Drug Prescription Health and Safety Program; Confidentiality.
3 Amend RSA 318-B:34 by inserting after paragraph II the following new paragraph:

4 II-a. A practitioner who intends to request and use information from the program about a
5 patient shall post a sign that can be easily viewed by the public that discloses to the public that the
6 practitioner may access and use information contained in the program. In lieu of posting a sign, the
7 practitioner may provide such notice in written material provided to the patient.

8 6 Providing Controlled Drug Prescription Health and Safety Information. Amend RSA 318-
9 B:35, I(a)(2) and (3) to read as follows:

10 (2) For reviewing information regarding prescriptions issued or dispensed by the
11 requester; ~~[or]~~

12 (3) For the purpose of investigating the death of an individual; **or**

13 **(4) For the purpose of administering RSA 326-B:36-a and RSA 329:13-b.**

14 7 New Paragraphs; Controlled Drug Prescription Health and Safety Program; Confidentiality.
15 Amend RSA 318-B:34 by inserting after paragraph III the following new paragraphs:

16 IV. The office may release identifiable patient-level data or information to the department of
17 health and human services for public health purposes if the office authorizes the release of such data
18 or information pursuant to a data sharing agreement between the office and the department. Any
19 such data sharing agreement shall be reviewed by the advisory council for the controlled drug
20 prescription health and safety program established in RSA 318-B:38, which may make
21 recommendations to the office. The department may release studies with de-identified data,
22 provided the release is authorized by the data sharing agreement. The data sharing agreement shall
23 include:

24 (a) The specific purpose of sharing data;

25 (b) A detailed description of the data sets that will be included;

26 (c) The criteria and procedures for the development of data sets;

27 (d) The criteria and procedures to ensure data security and destruction; and

28 (e) A proposed time frame in which the data will be used. Under no circumstances shall
29 the data or information released to the department pursuant to this section be copied or released by
30 the department to any other person or entity, unless the data or information is aggregated or
31 otherwise de-identified.

32 V. The department of health and human services shall comply with RSA 318-B:32, III with
33 respect to data or information received pursuant to paragraph IV.

34 8 Repeal. RSA 318-B:35, I(b)(5), relative to a practitioner or consultant retained by the office of
35 professional licensure and certification to review certain information, is repealed.

36 9 Effective Date. This act shall take effect upon its passage.