

State of New Hampshire HOUSE RECORD

**First Year of the 156th Session of the General Court
Calendar and Journal of the 1999 Session**

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Contains: Committee of Conference Listing, Public Hearings, Work Sessions, Notices, Reports and Amendments for Tuesday, June 29.

HOUSE CALENDAR

NOTICE

MEMBERS OF THE HOUSE:

The House will meet on Tuesday, June 29 at 10:00 a.m. There are still a number of bills that need action before the end of the session, including a bill of address. Your attendance is critical if we are to avoid the necessity of a two-thirds vote to do business.

It is possible that we may need to have House sessions on Wednesday, June 30 and Thursday, July 1 to handle bills that are late coming out of committees, or to act on Senate messages or committee of conference reports. I know that everyone is eager to finish the session and tend to personal affairs. We need everyone's cooperation and good will to complete our work expeditiously.

Special thanks to Stan Kelly and his outstanding staff in the computer room who stayed up through the night last Thursday and worked all day Friday to expunge a computer virus discovered in the State House system. We are lucky to have such a competent and dedicated staff.

Have a restful weekend. Let's hope the weather is more comfortable next week!

Donna Sytek, Speaker

NOTICE

There will be a Republican Caucus on Tuesday, June 29 at 9:15 a.m. in Representatives Hall. **Please note the time and room change.**

Rep. Gene G. Chandler, Majority Leader

NOTICE

There will be a Democratic Caucus on Tuesday, June 29 at 9:00 a.m. in Rooms 305-307 of the Legislative Office Building.

Rep. Peter H. Burling, Democratic Leader

TUESDAY, JUNE 29

CONSENT CALENDAR

COMMERCE

SB 105, relative to continuation of coverage of health insurance. OUGHT TO PASS WITH AMENDMENT

Rep. Kathleen N. Taylor for Commerce: This bill clarifies the provisions relating to continuation of coverage of health insurance for employees in group plans. It provides for temporary continuation of insurance coverage for members of group plans and their dependents who have become ineligible for continued coverage due to various circumstances beyond their control. Vote 17-0.

CRIMINAL JUSTICE AND PUBLIC SAFETY

SB 29-L, relative to the proper sheltering of dogs. RE-REFER TO COMMITTEE

Rep. Everett A. Weare for Criminal Justice and Public Safety: The concerns raised by dog owners, kennel owners and the SPCA could not be resolved in subcommittee. However, the merits of the bill have value in the protection of dogs and these differences can best be worked in a study. Vote 12-1.

SB 88-FN, relative to penalties for third driving while intoxicated offenses. RE-REFER TO COMMITTEE

Rep. Everett A. Weare for Criminal Justice and Public Safety: The hearing on the issue of driving under the influence of alcohol raised many questions in regards to the present laws and programs that govern this very serious problem. After discussion with the sponsor it was determined that the committee should hold on to this bill and wait until the outcome on HB 84 is complete. Therefore, the request for re-refer is recommended. Vote 13-0.

SB 125, placing restrictions on name changes for certain felons. INEXPEDIENT TO LEGISLATE

Rep. William V. Knowles for Criminal Justice and Public Safety: This bill is very similar to HB 215. Since we passed HB 215 and agreed to the senate amendment, SB 125 is no long necessary. Vote 13-0.

SB 143-FN, relative to penalties for incest. RE-REFER TO COMMITTEE

Rep. William V. Knowles for Criminal Justice and Public Safety: This bill deals with the penalties and the elimination of the statute of limitations in cases of incest. This is an important bill and the committee feels we need time to study it and come out with an equitable piece of legislation. Vote 12-1.

SB 158-FN, relative to indecent exposure. OUGHT TO PASS WITH AMENDMENT

Rep. William V. Knowles for Criminal Justice and Public Safety: This bill increases the penalty for indecent exposure when a person purposely performs any act of penetration or sexual contact on himself or herself or another in the presence of a child who is 12 years of age or younger. The penalty shall be a Class B Felony instead of a misdemeanor. If a person has previously been convicted of 2 or more offenses of this indecent exposure in the presence of a child who is less than 16 years of age it shall be a Class A Felony. Vote 10-2.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

SB 228-FN, relative to spousal benefits upon the death of certain retired group II members of the New Hampshire retirement system. RE-REFER TO COMMITTEE

Rep. Michael O'Neil for Executive Departments and Administration: This bill would provide spousal benefits equal to 50% upon the death of retired group II members who opted not to take the benefit and retired before April 1, 1987. The committee feels it needs additional time to gather information on the cost and ramifications of changing this benefit for all group II members. Vote 13-0

MUNICIPAL AND COUNTY GOVERNMENT

SB 76-L, allowing certain municipalities to offer tax exemptions to foster commercial and industrial construction. RE-REFER TO COMMITTEE

Rep. Anthony F. Simon for Municipal and County Government: While believing that the North Country of our state needs economic assistance, the committee feels that this bill requires clarification of the types of uses to which tax exemptions could apply and the municipalities that would be eligible to grant such exemptions. Vote 13-0.

SB 86, relative to enforcement of the collection and payment of county taxes by the county treasurer. RE-REFER TO COMMITTEE

Rep. Linda T. Foster for Municipal and County Government: This bill would allow county treasurers to collect county taxes in the same way that state or local tax collectors now accomplish this task. Although this policy may accommodate the needs of the unincorporated places, the committee wishes more time to ascertain its effect on our incorporated cities and towns, which traditionally have paid the county taxes assessed on their property owners even when the property owner did not pay the county taxes to the town. Vote 13-0.

SB 89-L, relative to library trustees. RE-REFER TO COMMITTEE

Rep. Anthony F. Simon for Municipal and County Government: This bill would establish procedures for the appointment of alternate library trustees, schedules for payment of appropriations to libraries and the status (lapsing or non-lapsing) of library funds. The committee feels that this bill needs further refinement to establish the proper relationship between municipalities and library trustees. Vote 13-0.

SB 188-L, allowing school districts operating under the official ballot form of meeting to have more than one special meeting per year through court petition on an appropriation question or issue. INEXPEDIENT TO LEGISLATE

Rep. Robert W. Brundige for Municipal and County Government: In SB 2 towns there is already a mechanism to hold a special meeting for school districts as stated in RSA 197:3: "Raising Money at Special Meeting." If the issue concerns an annual school district's amendment or rejection of the cost items or fact finder's reports concerning a collective bargaining agreement, then the special meeting can be called without court approval. This mechanism was enacted in 1997 and needs a chance to work in its current form. As long as the same issue or question is not addressed and there is an emergency, a school district may petition the court for additional special meetings. With the passage of HB 117 and the increased funding to the majority of school districts in this state resulting from that law, the committee did not feel that changing the rules regarding special school district meetings was judicious at this time. In addition, Section 2 of this bill would apply to all school meetings held in 1999. But HB 111 (Chapter 2 of the Laws of 1999) provides the opportunity to all school districts and municipalities to have one special meeting without court approval this year to address any Claremont-related issues. Therefore, the committee feels that this bill is not necessary and unanimously voted "inexpedient to legislate." Vote 13-0.

TUESDAY, JUNE 29

REGULAR CALENDAR

COMMERCE

SB 199, establishing certain standards of accountability for health maintenance organizations and other entities providing

health insurance through a managed care system. MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS.

Rep. Keith R. Herman for the majority of Commerce: This is the Governor's "HMO Accountability Act." The bill, as sent over from the Senate, contained four separate parts, each designed to provide consumers with information and tools necessary to ensure they receive adequate, timely health care services from HMO insurance companies.

These four sections are: 1.) Requiring all medical directors employed by an HMO to hold a valid New Hampshire physician's license. 2.) Providing for an independent external grievance procedure for cases where an HMO has denied payment for a covered benefit. 3.) Prohibiting any contract between an insurance carrier and a physician from containing a financial inducement to deny necessary care. 4.) Defining a decision not to pay for a specific health service or drug as "The Practice of Medicine."

The Commerce Committee believes strongly that consumers are entitled to receive any care necessary to maintain and improve their health conditions. The consumer should also receive those services without having to worry if their insurance company will pay for them as long as the service is a covered benefit. (No one is entitled to services without paying for those services.) To acknowledge these and other concerns the Commerce Committee has passed an amendment to SB 199, which includes aspects of all four sections of the original bill.

The committee worked in a bipartisan fashion to improve the language and simplify the processes of the original bill. The amendment requires an HMO to have a medical director who is licensed to practice medicine in New Hampshire. The amendment creates an independent external review process with oversight by the New Hampshire Insurance Commissioner. The amendment prohibits financial inducements in contracts between doctors and insurance companies. The amendment requires notification and disclosure to consumers of all their rights and obligations under this chapter. The amendment subjects any medical director who is overturned by an independent review organization to scrutiny by the Insurance Commissioner and two national accreditation boards which establish standards for utilization review decisions. The amendment creates a statutory study committee to develop guidelines for the board of medicine to use when determining whether a medical director exhibits a pattern of practice to be investigated by the board. The amendment adds a "hold harmless" clause so patients aren't responsible for the cost of care while going through the grievance process. The amendment reorganizes the bill to make RSA references easier to find and follow.

The Governor testified during the public hearing the costs (increases in health insurance premiums) of this bill would not exceed \$2 per month per covered person. This would translate into a **\$720,000 increase in cost to the state employees' health benefit**. (There are approximately 30,000 state-covered lives when you consider spouses and dependents.) The committee amendment would still cause premiums to rise, but by less than half of the Governor's estimated cost.

The **only** major portion of the original bill not included in the amendment is the expansion of the definition of "Practice of Medicine." RSA 329:1 currently defines the practice of medicine as a diagnosis, treatment, performance of surgery, or prescription of any treatment for any disease or human ailment. The committee simply does not agree that a "determination which denies authorization or payment for a covered service" can be interpreted as fitting the intent of the current definition of practice of medicine. The committee agrees that a medical director should be responsible for decisions, which result in **harm** to the patient, just as all other licensed physicians are currently. The original bill however, would have a medical director responsible for simply enforcing an insurance company policy which recommends one treatment over another regardless of the impact on the patient. There is no requirement harm is done, simply refusing to pay would be sufficient to trigger the responsibility and liability provisions in the original bill. **This is inconsistent with the public health intent of the current definition in RSA 329:1.**

The committee feels the amendment more accurately reflects the public policy statement that consumers should have access to care, which is paid for, without having to be concerned about insurance company reimbursement. The amendment accomplishes this by creating a process by which a medical director can be subjected to discipline (like all other physicians) for exhibiting a pattern of practice, which denies medically necessary care to patients.

The minority simply refuses to accept this process and is only willing to accept the definition change included in the original bill. The minority is willing to disregard the hard work put into creating an improved bill with bipartisan agreement on the changes the amendment makes. The committee knows the amendment effectively takes care of all the public policy concerns addressed by the Governor's original bill. Having a medical director be licensed in New Hampshire and having that medical director's adverse determinations subject to review and scrutiny are enough to ensure consumer protection and will not unreasonably increase the costs of insurance. Only five states require licensure by statute. NO OTHER STATE defines an adverse determination as the practice of medicine. This is not about being able to sue your HMO. New Hampshire repealed its corporate

practice of medicine doctrine in 1995. Under current New Hampshire law, an HMO can be sued.

The House previously passed HB 640-FN, which dealt with an external grievance procedure. The committee was willing to disregard this established House position in order to make improvements which all could agree on. Those improvements will not be reflected if the committee amendment is not accepted. Vote 9-8.

Rep. Martha Fuller Clark for the Minority of Commerce: The 9-8 vote for SB 199, the HMO Accountability Act, is the result of a fundamental difference within the Commerce Committee. The amended version omits part 2 from the original bill as passed in the Senate on a 20-4 vote. This section expands the definition of the practice of medicine to include medical directors. This statutory language clarifies that when medical directors are denying covered care on the basis of medical necessity, they are practicing medicine. The principal reason an HMO hires a physician as a medical director to make determinations of coverage is because they are using their medical expertise in rendering such decisions. Therefore, they should be held to the same standard of accountability and review as any other doctor. Without the language in part 2 of the original bill, this can not happen. Additionally, the original bill retains a grievance process which is more favorable to the consumer, despite the fact that certain improvements to the process of external grievance are contained in the amendment. The minority believes that these improvements are not of such importance that the underlying need for medical director accountability should be sacrificed in the process. Consumers need the grievance process to hold HMO's accountable and the New Hampshire Board of Medicine needs the statutory language to hold medical directors accountable. This bill should be passed in its entirety as it came to the House from the Senate if the Legislature is to enact significant HMO reform.

ENVIRONMENT AND AGRICULTURE

SB 68, establishing minimum 300 foot buffer zones around sensitive areas from application of herbicides, authorizing a study of environmental effects from residual herbicides and making an appropriation therefor. MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.

Rep. David L. Babson, Jr. for the Majority of Environment and Agriculture: The majority of the Environment and Agriculture Committee felt that the proposed 300-foot buffer zone around wells, boundary lines, springs, and groundwater would dramatically reduce the working area designated for spraying, making the process uneconomical. The current practice of spraying utilizes the latest technological advances and is only used on a designated area once or twice in the lifetime of the area's trees (approximately 70 years). Although the committee heard anecdotal reports, no scientific evidence was presented that this valuable and cost-effective timberland practice is detrimental to the environment. The majority felt it more likely that the use of household chemicals by the general public presented a far greater environmental threat than the well-monitored and controlled practice of aerial spraying. There was little opposition to the increased monitoring which would be required in this bill. Vote 9-6.

Rep. Betty B. Hall for the Minority of Environment and Agriculture: Aerial spraying of herbicides is a procedure to kill the hardwoods and promote certain species desired by the timber owner for targeted desired markets. The effect on wildlife, soil and water is not well understood. How far it may drift is a variable factor and may affect not only the environment but also residential areas. Monitoring of possible environmental damage is a responsibility of the Department of Environmental Services. The department has not been funded to do this monitoring. This bill provides modest available funding.

NOTICE OF RECONSIDERATION

This day, Thursday, the 24th of June, 1999, at 8:55 a.m., Representative John P. Gleason, having voted with the prevailing side, did serve notice that today or some other day as limited by House Rules he would ask the House to reconsider its action whereby Sections 1 and Sections 3-46 of the Burling-Hager floor amendment (document #1763h) to **HB 2-FN-A**, relative to state fees, funds, revenues, and expenditures, failed to pass lacking the necessary two-thirds vote.

Karen O. Wadsworth, Clerk of the House

LAI D ON TABLE

CACR 12, relating to a 4-year term for the office of governor. Providing that beginning in the year 2002, the governor shall be elected every 4 years. (Pending question is on ought to pass.)

CACR 21, relating to gender neutral language in the constitution. Providing that all references to persons in the constitution

shall be gender neutral. (Pending question is on inexpedient to legislate.)

HB 2-FN-A, relative to state fees, funds, revenues, and expenditures. (Pending question is on second reading, open to further amendment.)

HB 116-FN-A-L, establishing an alternative consumption tax as a source of funding for education and making an appropriation therefor. (Pending question is on re-refer to committee.)

HB 536, authorizing municipalities to exempt from the local property tax personal property employed in the generation and production of electric power. (Pending question is the adoption of the committee report.)

HB 549-L, relative to the minimum vote required for bond issues by municipalities. (Pending question is on inexpedient to legislate.)

HB 550-LOCAL, relative to the date town reports must be made available in towns which have adopted the official ballot referenda form of meeting. (Pending question is on inexpedient to legislate.)

HB 612-FN, relative to compensation paid to jurors. (Pending question is on the adoption of the committee report.)

HB 695-FN-A, providing an exemption under the interest and dividends tax for taxpayers on a limited income. (Pending question is on inexpedient to legislate.)

HB 703-FN-A-L, establishing a regional youth center pilot program in the city of Nashua and making an appropriation therefor. (Pending question is re-refer to committee.)

HR 10, affirming revenue estimates for fiscal year 1999. (Pending question is ordering to third reading.)

house bills amended by the senate

HB 56, establishing a procedure for reinstating corporate charters that have been expired for more than 3 years. (House Concurred 6/16/99)

HB 67, relative to termination of parental rights upon a finding of either child abuse or the commission of certain criminal offenses. (House Nonconcurrent; C-of-C 5/13/99)

HB 69, relative to the definition of employee under certain labor laws and relative to overtime pay for hourly employees. (House Nonconcurrent; C-of-C 6/16/99)

HB 82, establishing a committee to study financial arrangements among hospitals, physicians, and insurance companies. (House Concurred 6/16/99)

HB 109-FN-A-L, establishing a flat rate education income tax and a statewide education property tax to fund public education and making an appropriation therefor. (House Nonconcurrent 3/30/99)

HB 112-FN-A, relative to state taxes and other sources of revenue for funding an adequate education; authorizing electronic games of chance at racetracks, grand hotels, and resort hotels; relative to establishing the cost of an adequate education, and relative to creating a commission to study the methodology used in establishing the cost of an adequate education, and making an appropriation therefor. (House Nonconcurrent 4/1/99)

HB 117-FN-A-L, establishing a uniform education property tax and a utility property tax, increasing the business profit and real estate transfer taxes, and including other sources of revenue to provide funding for an adequate public education and making an appropriation therefor. (House Nonconcurrent; C-of-C 4/22/99)

HB 204-FN, relative to driving after license revocation or suspension. (House Concurred 6/9/99)

HB 206, relative to restrooms in restaurants. (House Concurred 5/20/99)

HB 207-FN-A, directing the office of state planning to conduct a study of the effects of sprawl in the state and making an

appropriation therefor. (House Concurred 4/22/99)

HB 210, reinstating the corporate charter of C. A. B. Real Estate Inc. (House Concurred 4/29/99)

HB 215, placing restrictions on name changes for certain felons. (House Concurred 6/9/99)

HB 240, prohibiting the reintroduction of wolf populations to the state of New Hampshire. (House Concurred 5/13/99)

HB 249, relative to the membership of the rivers management advisory committee. (House Concurred 4/14/99)

HB 265, relative to the student trustees on the New Hampshire board of trustees. (SJ 23)

HB 272-FN, relative to the use of laser pointing devices. (SJ 23)

HB 291, establishing a study committee for seed sterilization technology or "terminator" technology. (House Nonconcurrent; C-of-C 6/23/99)

HB 313-FN, relative to the regulation of the practice of optometry. (House Concurred 6/9/99)

HB 325, prohibiting "cramming" in telecommunications billing. (House Concurred 6/9/99)

HB 333, relative to contracts between participating providers and managed care entities. (House Nonconcurrent; C-of-C 6/23/99)

HB 345-FN, relative to harassment via the computer. (House Concurred 6/9/99)

HB 356, relative to the issuance of summons and notice in CHINS petitions. (House Concurred 6/22/99)

HB 358, relative to the term of office for members of the state board of education. (House Concurred 4/29/99)

HB 367, relative to requesting certifying scientists to appear at DWI hearings. (SJ 23)

HB 374, relative to the order of names on presidential primary election ballots. (House Concurred 6/9/99)

HB 428, relative to school administrative units. (House Nonconcurrent; C-of-C 6/9/99)

HB 431, establishing a committee to study methods and processes necessary to retain the traditional uses of White Mountain National Forest land, the impact of any change in designation, and relative to promoting the continual multiple use management of such land. (House Concurred 6/9/99)

HB 442, relative to charitable gift annuities. (House Concurred 5/13/99)

HB 444, relative to establishing a study committee to review reestablishing passenger rail service on the Eastern Line between Newburyport, Massachusetts and Kittery, Maine. (House Concurred 6/9/99)

HB 456, establishing a committee to study issues relating to the deaf community in NewHampshire. (House Concurred 6/9/99)

HB 463, relative to local regulation of junk yards and altering the definition of federal aid primary system for purposes of the laws regarding highway regulations, protection and control regulations. (House Nonconcurrent; Cof C 6/22/99)

HB 473, establishing a committee to study the non-group health insurance market. (House Concurred 6/22/99)

HB 491, relative to qualifying examinations for individuals seeking driver's licenses, and driver education course requirements. (House Nonconcurrent; C-of-C 6/9/99)

HB 492-FN-A-L, reducing the state bond guarantee limit for wastewater projects. (SJ 21)

HB 513, relative to approved permissible fireworks. (House Concurred 5/13/99)

HB 519, requiring law enforcement agencies to adopt written policies regarding emergency responses and vehicular pursuits. (House Concurred 6/16/99)

HB 527, relative to the duties of the public utilities commission. (House Concurred 6/9/99)

HB 532, establishing a commission to study early childhood education. (House Concurred 6/16/99)

HB 541, establishing a committee to study the upgrade of Routes 11 and 140. (House Concurred 6/9/99)

HB 562, relative to the date of decision for appeals of zoning matters. (SJ 24)

HB 566, relative to the supervision of the driver education program. (House Concurred 6/9/99)

HB 596, making technical corrections to certain laws administered by the department of revenue administration and extending the temporary tax rate of the communications services tax through the biennium ending June 30, 2001. (SJ 24)

HB 604, relative to filling a vacancy in the office of county commissioner. (House Concurred 6/16/99)

HB 664, establishing a study committee on rights of ownership to cemetery plots. (House Nonconcurrent; C-of-C 6/9/99)

HB 667, relative to the quorum required for sessions of the supreme court. (House Concurred 6/16/99)

HB 675-FN, extending the applicability of postsecondary educational assistance for NewHampshire national guard members and requiring an annual reporting from state-supported postsecondary institutions. (House Concurred 6/23/99)

HB 689-FN, establishing a committee to study campaign contributions and expenditures. (House Nonconcurrent; C-of-C 6/9/99)

HB 714-FN, changing the potential penalties for certain acts of solicitation and conspiracy to commit murder and attempted murder to life in prison. (House Concurred 6/9/99)

HB 739, eliminating certain restrictions on the number of days bingo volunteers may serve. (SJ 23)

HB 741, relative to the ratio of apprentices to journeymen in trade or industry apprenticeship programs. (SJ 24)

HB 742, defining "domestic employee" for purposes of workers' compensation. (House Concurred 6/22/99)

HB 745-L, authorizing the town of Ashland to call a special meeting for the purpose of raising money to address a general fund deficit. (House Concurred 6/22/99)

HJR 2, urging that federal air pollution programs not punish early adopters of air pollution control technology. (House Concurred 6/23/99)

1999 House Committee of Conference Procedures

- The Chairmen of the policy committees will receive bills amended by the Senate and should check with their committees to determine whether the committee will concur, non-concur, or request a Committee of Conference.
- When a committee requests that the bill be sent to a Committee of Conference, the Speaker generally will appoint members from those committees which have heard the bill. Chairmen will recommend members for appointment. If the bill has gone to more than one committee, the members may come from the different committees. Chairmen should recommend only those members from their policy committees. In the case of a bill which has gone to a policy committee and Finance, one slot is generally reserved on the four member Committee of Conference for a member from the Finance Committee.
- For House bills in Committee of Conference, the House Committee of Conference Chairman shall set the time and place of the first meeting and shall chair each meeting of the Committee of Conference. Each meeting shall be posted in the Clerk's Office and outside the committee room at least 24 hours in advance.(House Rule 43(c))
- The House and Senate Committees of Conference on a bill shall meet jointly but vote separately while in conference.
- The Committee of Conference may not change the title of the bill. The Committee also may not add amendments to the bill which are not germane to the subject matter of the bill or contain subject matter that has been indefinitely postponed. A non-germane amendment is one in which the subject matter is not contained in either the House or Senate version of the bill.(House Rule 49 (b))
- The sponsor of a bill which is in Committee of Conference shall, upon request, be provided an opportunity to be heard.
- A unanimous vote of both the House and Senate Committees of Conference voting separately is necessary for an agreed upon report to be sent to the House and Senate.
- Reports of all Committees of Conference must be filed with the Office of Legislative Services by the deadline adopted by

the House in Rule 64. All Committee of Conference members must sign all Committee of Conference reports in the Office of Legislative Services.

- The first-named House member on all bills in Committee of Conference must prepare an analysis of the report for printing in the House Calendar. This statement should contain a complete explanation of all changes made to the bill since it was passed by the House. This will be submitted to the House Clerk's Office for printing in the calendar.
- All Committee of Conference reports shall be distributed in seat pockets to be acted on some subsequent day. (House Rule 49 (a)).
- A Committee of Conference report on either a House or Senate bill may be placed on the Consent Calendar only upon a unanimous vote of all House conferees.(House Rule 49 (d)).

COMMITTEES OF CONFERENCE

HB 69, relative to the definition of employee under certain labor laws and relative to overtime pay for hourly employees. (Reps. Daniels, Gilman, Clegg and J. Kelley)

HB 291, establishing a study committee for seed sterilization technology or "terminator" technology. (Reps. Babson, Chandler, Harmon and Melcher)

HB 333, relative to contracts between participating providers and managed care entities. (Reps. K. Herman, Hunt, Francoeur and Taylor)

HB 428, relative to school administrative units. (Reps. McKinley, Ward, Larrabee and C. Jean; Sens. Disnard, Johnson and J. King)

HB 463, relative to local regulation of junk yards and altering the definition of federal aid primary system for purposes of the laws regarding highway regulations, protection and control regulations. (Reps. Calawa, Leber, W. McCarty and Bouchard)

HB 491, relative to qualifying examinations for individuals seeking driver's licenses, and driver education course requirements. (Reps. Packard, Letourneau, LaPorte and Gleason; Sens. Gordon, Trombly and Roberge)

HB 664, establishing a study committee on rights of ownership to cemetery plots. (Reps. Patten, Griffin, Zerba and Rice; Sens. Trombly, Disnard and Roberge)

HB 689-FN, establishing a committee to study campaign contributions and expenditures. (Reps. Horton, F. Davis, Splaine and Clegg; Sens. McCarley, Wheeler and Krueger)

SB 30, relative to the cruelty to animals law. **REPORT FILED**

SB 47-FN, relative to compensation for time lost by fish and game conservation officers for injuries received in the line of duty, and restoring certain leave time for a conservation officer injured while on duty on August 19, 1997. (Sens. Disnard, Trombly and F. King)

SB 70, changing the safe drinking water standard for MTBE. (Sens. Wheeler, Cohen and Russman; Reps. Bradley, Norelli, Maxfield and Densmore)

SB 101, relative to landlord-tenant obligations. (Sens. Trombly, Disnard and Russman; Reps. Bergin, P. Woods, J. Wall and Craig)

SB 124, establishing a committee to study the integration of technology at the state and municipal level. (Sens. D'Allesandro, McCarley and Klemm; Reps. Lynde, Guay, Maxfield and Bergeron)

SB 140, relative to ear and body piercing. (Sens. Wheeler, Squires and McCarley; Reps. Dalrymple, Manning, Seldin and Batula)

SB 204, establishing the New Hampshire excellence in higher endowment trust fund. (Sens. Larsen, Gordon and Cohen; Reps. Hoadley, Alger, P. Davis and Snyder)

COMMITTEE MEETINGS

MONDAY, JUNE 28

**DEVELOPMENTAL DISABILITY WAITLIST FUND ALLOCATION OVERSIGHT COMMITTEE, (RSA 171-A:1-b),
Room 205, LOB**

10:00 a.m. Regular meeting.

FINANCE, Rooms 210-211, LOB

9:00 a.m. Executive session on pending legislation.

FINANCE - (DIVISION I), Room 212, LOB

9:30 a.m. Work and executive session on pending legislation.

FINANCE - (DIVISION II), ROOM 209, LOB

9:00 a.m. Work and executive sessions on pending legislation may be held throughout the day.

FINANCE - (DIVISION III), ROOM 210-211, LOB

9:00 a.m. Work and executive sessions on pending legislation.

**HISTORICAL COMMITTEE (RSA 17-I) JOINT WITH HERITAGE COLLECTIONS COMMITTEE (RSA 227-C:18),
Room 208, LOB**

1:30 p.m. Joint meeting.

PUBLIC HIGHER EDUCATION STUDY COMMITTEE (RSA 187-A:25-a), Room 207, LOB

10:00 a.m. Regular meeting. Committee will be taking input from legislators as to their concerns with public higher education in New Hampshire.

TUESDAY, JUNE 29

SCIENCE, TECHNOLOGY AND ENERGY, Room 304, LOB

Full committee work session relative to electric rate reduction financing.

WEDNESDAY, JUNE 30

ENVIRONMENT AND AGRICULTURE, Room 303, LOB

10:00 a.m. Special subcommittee on universal waste and special exemptions.

SCIENCE, TECHNOLOGY AND ENERGY, Room 304, LOB

10:00 a.m. Full committee work session relative to electric rate reduction financing.

THURSDAY, JULY 1

SCIENCE, TECHNOLOGY AND ENERGY, Room 304, LOB

10:00 a.m. Full committee work session relative to electric rate reduction financing.

TUESDAY, JULY 6

CHILDREN AND FAMILY LAW, Room 206, LOB

10:00 a.m. Subcommittee work session on ***HB 571***, relative to joint legal and physical custody of children and ***HB 628***, relative to the relocation of the principal residence of a child.

MONDAY, JULY 12

PERINATAL ALCOHOL TOBACCO AND OTHER DRUG USE TASK FORCE (RSA 132:19), Room 101, LOB

10:00 a.m. Rescheduled regular meeting.

WEDNESDAY, JULY 14

FISCAL COMMITTEE (RSA 14:30-a), Rooms 210-211, LOB

9:00 a.m. Regular business.

9:30 a.m. Audit: State of New Hampshire Department of Education Special Education Catastrophic Aid Program Performance Audit report July 1999.

FRIDAY, JULY 16

ADMINISTRATIVE RULES (RSA 541-A:2), Rooms 306-308, LOB

9:00 a.m. Regular meeting.

MONDAY, JULY 19

NEW PUBLIC-PRIVATE PARTNERSHIP TO CONSERVE NEW HAMPSHIRE'S NATURAL, CULTURAL, AND HISTORICAL RESOURCES FEASIBILITY STUDY COMMISSION (SB 493, Chapter 161:2, Laws of 1998), Room 308, LOB

1:00 p.m. Regular meeting.

OIL FUND DISBURSEMENT (RSA 146-D:4), Room 305, LOB

9:30 a.m. Rescheduled regular meeting.

FRIDAY, JULY 30

BOARD OF MANUFACTURED HOUSING (RSA 205-A:25), Room 201, LOB

1:00 p.m. Rescheduled regular meeting.

OFFICIAL NOTICES

COUNTY DELEGATION NOTICE

The Hillsborough County Executive Committee will meet on Friday, July 16 at 9:30 a.m. at the Hillsborough County Complex, Goffstown

Rep. Robert S. Mercer, Chairman

Hillsborough County Executive Committee

COUNTY DELEGATION NOTICE

The Rockingham County Executive Committee will meet Friday, July 30 at 9:30 a.m. in the Hilton Auditorium, Rockingham County Nursing Home, Brentwood to review the second quarter budget.

Rep. Jon P. Beaulieu, Chairman
Rockingham County Executive Committee

COUNTY DELEGATION NOTICE

The Sullivan County Delegation will meet in annual convention at the Ahern Building, County Complex, Unity on Monday, June 28 at 1:00 p.m.

Rep. Gordon B. Flint, Chairman
Sullivan County Delegation

A summary of the Judicial Conduct Committee's May meeting is available at the Sergeant-at-Arms counter for those interested.

Donna Sytek, Speaker

The Sergeant-at-Arms Office can reuse the large manila 10"x13" clasp envelopes that the House Calendars are mailed out in. Any that are brought in will be put to good use.

Rob Johnson, Sergeant-at-Arms

A reminder to Representatives to please keep personal belongings, briefcases, carrying bags etc. under their seats during House sessions. This is in order to keep the floor unobstructed for your row mates moving to and from their seats. Thank you.

Rob Johnson, Sergeant-at-Arms

Softbound volumes of the 1998 Session Laws are now available for those who signed up for them in the Office of Legislative Services, Room 109, State House. There are a number of extra volumes available to House and Senate members on a first come, first serve basis.

Richard E. Amidon, Director
Office of Legislative Services

REVISED AMENDED FISCAL NOTES

The following HBs have a revised or amended fiscal note: HBs 66, 67, 69, 84, 89, 108, 109, 116, 118, 119, 120, 124, 224, 237, 245, 272, 274, 297, 311, 325, 346, 395, 424, 417, 443, 453, 464, 477, 486, 494, 495, 501, 522, 537, 546, 549, 565, 574, 576, 579, 596, 599, 601, 602, 605, 606, 608, 612, 615, 616, 620, 624, 625, 626, 639, 641, 645, 649, 650, 652, 653, 655, 658, 672, 676, 685, 689, 692, 693, 694, 695, 696, 698, 699, 707, 715, 719, 722, 726, 727, 728, 733, 734, 735 and 738.

Leo J. Callahan, Assistant Clerk

When the House Clerk's Office is aware of House Members who are hospitalized or homebound by serious illness, we will publish a list of names and addresses so that their colleagues who so desire may send cards and greetings.

Paul A. Golden, PO Box 26, Center Barnstead, New Hampstead 03225-0026

Philip J. McColgan, Jr., 162 Old Gage Road, Pelham, New Hampshire 03076-2635

Robert H. Milligan, 42 Patten Road, Merrimack, New Hampshire 03054-3064

Norma A. Sabella, 4 Birchwood Drive, Derry, New Hampshire 03038-3937

Frank M. Schanda, 22 Maplecrest, Newmarket, New Hampshire 03857-1402

Karen O. Wadsworth, Clerk of the House
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MEMBERS' NOTICES

The following notices are published in the House record as a courtesy to the member(s) requesting publication. These are not official public notices and will be limited to legislative policy or social activities and political meetings or events. Publication should not be construed as support for either the events listed or the view espoused by the individual or organization sponsoring the event.

Members who would like more information on media and violence can check out the web site produced by the National Institute on Media and the Family, www.mediafamily.org. The Institute put on an all day conference for school administrators in NH this winter and they have a free brochure called "12 Tips for Taming the Tube and Safety Tips for Surfing the Net." Their toll free phone number is 888-672-5437.

Rep. Susan B. Durham

The Ranking Democrats will be meeting each Wednesday in Room 101 of the LOB at 9:00 a.m.

Rep. Marion L. Copenhaver

The McCain for President Campaign invites all members of the General Court to an Ice Cream Social and Reception for Senator John McCain at the home of Rep. Kathy Flora on Saturday, June 26th at 5:00-6:00 p.m. Location: 95 Hitching Post Lane, Bedford. Family members are welcome. See Rep. Kathy Flora or call the McCain offices at 626-0800 for directions. Hope to see you there.

Rep. Kathleen M. Flora

The Belknap County Republican Committee will hold its Annual Chicken Barbecue on Saturday, June 26th at the Belknap County Fairgrounds (Belmont). Tickets are \$15 and may be purchased from Reps. Rosen or Rice.

Rep. Ralph J. Rosen

The New Hampshire Center for Constitutional Studies will hold a breakfast forum on constitutional principles on June 26 at 8:00 a.m. at Maddens Tavern, 583 Daniel Webster Highway in Merrimack.

Rep. Tony F. Soltani

All backbenchers are asked to wear their backbencher shirts to the House session on Tuesday, June 29th.

Rep. Robert J. L'Heureux

All legislators are invited to participate in an informal discussion about experiences and observations you have had during your time as a legislator at a roundtable to be held in the basement of St. Paul's Church, Tuesday, June 29th during the noon recess. Please bring your own lunch. Refreshments will be available. Your comments are being collected as part of a unique arts project called THE PEOPLE'S HOUSE which will be an original work of musical theater based on many of your stories. It is one of the two Millennium projects funded by the New Hampshire State Council on the Arts. It will premiere at the Capitol Center for the Arts in the fall of 2000. Your participation is encouraged and it should be fun.

Reps. Martha Fuller Clark and MaryAnn Blanchard

A good-bye party for **Lois Spearman**, our State House nurse for the past 21 years, is being sponsored by her friends in the House and Senate. The party is planned for Tuesday, June 29th at the Cat 'n Fiddle Restaurant on Manchester Street, Concord at 4:45 p.m. (or 15 minutes after adjournment if we are in session). All are welcome!

Rep. Howard C. Dickinson

Members of the Rockingham County Delegation challenge friends and other legislative members to an afternoon of golf on Friday, July 23 at 12:30 p.m. at the Apple Hill Golf Club on Route 107, East Kingston (formerly East Kingston Golf Course). It should be an enjoyable day of golf and anyone interested, please contact Rep. John Whittier at 642-8744.

Rep. Richard E. Dolan

The Department of Transportation will hold the following meetings:

June 29 – Plymouth Regional Senior Center, 8 Depot Street, Plymouth, 7:00 p.m. Public hearing (Commission), Holderness-Plymouth, bridge replacement NH 175A over Pemigewasett River.

July 1 – UNH, Elliot Alumni Center, The 1925 Room, Edgewood Road, 7:00 p.m. Combined public officials/public informational meeting, Durham, rail platform at railroad tracks near UNH Dairy Bar.

July 13 – Northfield Town Hall, 21 Summer Street, Northfield, 7:00 p.m. Public informational meeting, Northfield-Tilton, bridge rehabilitation.

July 26 – Exeter Office Building, Nowak Room, 10 Front Street, Exeter, 7:00 p.m. Public hearing (Selectmen), Exeter, Lincoln Street railroad platform and parking area.

Rep. Edwin O. Smith, Chairman

Public Works and Highways

TUESDAY, JUNE 29

AMENDMENTS

(LISTED IN NUMERICAL ORDER)

1999-1810h

Floor Amendment to SB 68

Proposed by Rep. Phinizy - R

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

AN ACT authorizing a study of environmental effects from residual herbicides and making an appropriation therefor.

Amend the bill by replacing section 2 with the following:

2 Study.

I. Beginning July 1, 1999, the department of environmental services is authorized to conduct an ongoing study of the environmental effects from residual herbicides due to aerial spraying of forest lands. The study shall be in addition to other monitoring of pesticide residuals which may be conducted by the department, and shall be focused on those north country watersheds which have received aerial herbicide application in the recent past.

II. The department is instructed to seek funding for the study from federal and private sources.

Amend the bill by replacing all after section 4 with the following:

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

AMENDED ANALYSIS

This bill authorizes the department of environmental services to conduct a study of the environmental effects from residual herbicides due to aerial spraying of forest lands, and appropriates \$20,000 to the department for this purpose. This bill also creates a special fund for scientific measurement and monitoring of residual pesticides in the waters and aquatic resources of the state.

1999-1381h

Amendment to SB 105

Proposed by the Committee on Commerce - C

Amend RSA 415:18, VII(g)(1)(F) as inserted by section 1 of the bill by replacing it with the following:

~~[(E)](F)~~ The individual, surviving spouse, divorced spouse, legally separated spouse, or dependent shall elect to continue the participation in the group plan according to rules adopted by the commissioner under RSA 541-A. The individual, surviving spouse, or dependent shall be responsible for payment of premiums which may include an administrative fee not to exceed 2 percent of the monthly premium to the employer or policyholder throughout the extension period. ~~[With respect to a divorced spouse or legally separated spouse, the extension shall be provided without additional premium or examination therefor, as if the decree had not been entered; however, the premium may include an administrative fee not to exceed 2 percent of the monthly premium to the employer or policyholder throughout the extension periods.]~~ Any divorced spouse or legally separated spouse who is responsible for making a portion of or full payment to the employer shall notify the employer and the insurance company, in writing within 30 days of the decree of divorce or separation, that coverage under this subparagraph is requested. Any employee who is responsible for making a portion of or full payment to the employer shall likewise notify the employer and the insurance company, in writing within 30 days of the decree of divorce or separation, that coverage under this subparagraph is requested. The employer shall have the right to terminate coverage for a former dependent spouse who is receiving coverage under this subparagraph if any payment for the coverage is not received from the former dependent spouse within 30 days of the date the premium payments are due. If any payment for the coverage for which the employee is responsible is not received from the employee within 30 days of the date the premium payments are due, the employer shall have the right to terminate coverage for a former dependent spouse; however, no such termination shall occur without 30 days' prior notice to the former dependent spouse, during which time the former dependent spouse shall be given an opportunity to make the payments due or to secure payment from the employee. Upon termination of the extension period, the member, surviving spouse, divorced spouse, legally separated spouse, or dependent shall be entitled to exercise any option which is provided in the group plan to elect a converted policy. After timely receipt of the premium payment from the individual, surviving spouse, divorced spouse, legally separated spouse, or dependent, if the employer fails to make payments to the insurer or health service corporation or health maintenance organization, with the result that coverage is terminated, the employer shall be liable for benefits to the same extent as the insurer or health service corporation or health maintenance organization would have been liable if coverage had not been terminated.

AMENDED ANALYSIS

This bill clarifies the provisions relating to continuation of coverage of health insurance for employees in group plans.

1999-1815h

Amendment to SB 158-FN

Proposed by the Committee on Criminal Justice and Public Safety - C

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

AN ACT relative to definitions and penalties for indecent exposure and inclusion in certain sexual offender registry classifications.

Amend RSA 645:1, I-a as inserted by section 1 of the bill by replacing it with the following:

(a) Fornicates, exposes his or her genitals or performs any other act of gross lewdness under circumstances which he or she should know will likely cause affront or alarm.

Amend RSA 645:1, II-a as inserted by section 1 of the bill by replacing it with the following:

(a) Such person purposely performs any act of penetration or sexual contact on himself or herself or another in the presence of a child who is 12 years of age or younger.

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as section 5:

2 Addition to Sexual Offender Registry Classifications. Amend RSA 651-B:1, III(a) to read as follows:

(a) RSA 632-A:2, 632-A:3, 632-A:4, ~~645:1~~, II, **or 645:1, III**; or

3 Addition to Sexual Offender Registry Classifications. Amend RSA 651-B:6, I to read as follows:

I. Any sexual offender convicted of a violation or attempted violation of RSA 632-A:2, ~~632-A:3~~, **or 645:1, III**, and any offender against children convicted of a violation or attempted violation of RSA 169-B:41, II, 633:1, 633:2, 639:3, III, 645:2, II, 649-A:3, I, or 650:2, II, or of an equivalent offense in an out-of-state jurisdiction, shall be registered for life.

4 Addition to Sexual Offender Registry Classifications. Amend RSA 651-B:7, II(a) to read as follows:

II.(a) The division shall maintain a separate list of all individuals registered pursuant to this chapter who have been convicted of any violation or attempted violation of one of the following offenses, or of any law of another state or the federal government reasonably equivalent to one of the following offenses:

(1) RSA 632-A:2, I(l).

(2) RSA 632-A:2, II.

(3) RSA 632-A:3, III.

(4) RSA 645:1, II.

(5) **RSA 645:1, III.**

(6) Any offense described in RSA 651-B:1, V.

AMENDED ANALYSIS

This bill changes the definitions and penalties for indecent exposure, and includes such offenders in certain sexual offender registry classifications.

1999-1803h

Amendment to SB 199

Proposed by the Majority of the Committee on Commerce - R

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

1 New Section; Medical Directors Required. Amend RSA 420-E by inserting after section 2 the following new section:

420-E:2-a Medical Director. Every medical utilization review entity licensed by the department under this chapter shall employ a medical director licensed under RSA 329.

2 New Paragraph; Definition Added. Amend RSA 420-J:3 by inserting after paragraph XXV the following new paragraph:

XXV-a. "Medical director" means a physician licensed under RSA 329 and employed by a health carrier or medical utilization review entity who is responsible for the utilization review techniques and methods of the health carrier or medical utilization review entity and their administration and implementation.

3 New Paragraph; Medical Director Required. Amend RSA 420-J:6 by inserting after paragraph IV the following new paragraph:

V. Each health carrier that conducts utilization review shall employ a medical director who shall have responsibility for all utilization review techniques and methods and their administration and implementation. Nothing in this section shall be construed to preclude a medical director from consulting with or relying on the advice of a physician licensed in this state or any other state. Nothing in this section shall be construed as expanding the professional or personal liability of a medical director.

4 Information Provided to Covered Persons. Amend RSA 420-J:5, II(a) – (d) to read as follows:

(a) A description of the **internal** grievance procedure **required under RSA 420-J:5** for adverse determinations and other matters ~~which~~ **and a description of the process for obtaining external review under RSA 420-J:5-a – RSA 420-J:5-d.**

These descriptions shall be set forth in or attached to the policy, certificate, membership booklet, or other evidence of coverage provided to covered persons.

(b) A statement of a covered person's right to contact the commissioner's office for assistance at any time. The statement shall include the toll-free telephone number and address of the commissioner.

(c) Upon written denial of a requested medical service or claim by the health carrier, a statement of the covered person's right to access the internal grievance process. ***This statement shall also include a written explanation of any adverse determination, with the name and credentials of the health carrier medical director, including board status and the state or states where the person is currently licensed, and the relevant clinical rationale used to make the adverse determination. If the person making the adverse determination is not the medical director but a designee, then the credentials, board status, and state or states of current license shall also be provided for that person. Nothing in this section shall be construed to require a health carrier to provide proprietary information protected by third party contracts.*** (d) Staff assistance in filing ***an internal*** grievance.

5 Second Level Grievance; Names Required. Amend RSA 420-J:5, V(a)(3) to read as follows:

(3) The review panel shall issue a written decision to the covered person within 5 business days of completing the review meeting. Upon concurrence of the covered person, a copy of the decision shall be forwarded to the insurance department. The decision shall include the titles of the members of the review panel; a statement of the review panel's understanding of the nature of the grievance, including issues raised by the covered person, and all pertinent facts; the rationale for the review panel's decision; reference to evidence or documentation considered by the review panel in making the decision; if an adverse decision is made, the instructions for requesting a written statement of the clinical rationale, including the clinical review criteria used to make the determination; and a statement of the covered person's right to file an external appeal as provided in RSA [420-J:5, VIII] ***420-J:5-a – RSA 420-J:5-d. The statement of appeal rights shall include a description of the process for obtaining external review of a determination, a copy of the written procedures governing external review, including the required time frames for requesting external review, and notice of the conditions under which expedited external review is available..*** 6 Review Panel; Names Required. Amend RSA 420-J:5, V(b)(3) to read as follows:

(3) The review panel shall issue a written decision to the covered person within 5 business days of completing the review meeting. The decision shall include the titles of the members of the review panel; a statement of the review panel's understanding of the nature of the grievance and all pertinent facts; the rationale for the review panel's decision; reference to evidence or documentation considered by the review panel in making the decision; if an adverse decision is made, the instructions for requesting a written statement of the clinical rationale, including the clinical review criteria used to make the determination; and a statement of the covered person's right to file an external appeal as provided in RSA [420-J:5, VIII] ***420-J:5-a – RSA 420-J:5-d. The statement of appeal rights shall include a description of the process for obtaining external review of a determination, a copy of the written procedures governing external review, including the required time frames for requesting external review, and notice of the conditions under which expedited external review is available.***

7 Expedited Internal Grievance Review. Amend RSA 420-J:5, VI(e) to read as follows:

(e) In any case where the expedited review process does not resolve a difference of opinion between the health carrier and the covered person or the provider acting on behalf of the covered person, the covered person or the provider acting on behalf of the covered person may submit a written grievance, unless the provider is prohibited from filing a grievance by federal or other state law. A health carrier shall review it as a second level grievance. In conducting the review, the health carrier shall ~~[adhere to time frames that are reasonable under the circumstances]~~ ***make a decision and notify the covered person as expeditiously as the covered person's medical condition requires, but in no event more than 72 hours after the grievance is submitted.*** 8 New Paragraph; Definition Added. Amend RSA 420-J:3 by inserting after paragraph III the following new paragraph:

III-a. "Authorized representative" means a person to whom a covered person has given consent to represent the covered person in an external review. Authorized representative may include the covered person's treating provider.

9 New Paragraph; Definition Added. Amend RSA 420-J:3 by inserting after paragraph XXIII the following new paragraph:

XXIII-a. "Independent review organization" means an entity that employs or contracts with clinical peers to conduct independent external reviews of health carrier determinations.

10 New Sections; External Review. Amend RSA 420-J by inserting after section 5 the following new sections:

420-J:5-a Right to External Review.

I. A covered person shall have the right to independent external review of a health carrier determination when all of the following conditions apply:

- (a) The subject of the request for external review is an adverse determination;
- (b) The covered person has completed the internal review procedures provided by the health carrier pursuant to RSA 420-J:5, III through VI, or the health carrier has agreed to submit the determination to independent external review prior to completion of internal review, or the covered person has requested first or second level, standard or expedited review and has not received a decision from the health carrier within the required time frames;
- (c) The covered person or the covered person's authorized representative has submitted the request for external review in writing to the commissioner within 6 months of the date of the health carrier's second level denial decision provided pursuant to RSA 420-J:5, V or VI, or if the health carrier has failed to make a first or second level, standard or expedited review decision that is past due, within 6 months of the date the decision was due;
- (d) The covered person's cost for the amount in controversy is, or is anticipated to be, equal to or in excess of a total of \$500;
- (e) The health carrier determination does not relate to any category of health care services that is excluded from the external review provisions of this section pursuant to paragraph II; and
- (f) The request for external review is not based on a claim or allegation of provider malpractice, professional negligence, or other professional fault excluded from the external review provisions of this section pursuant to RSA 420-J:5-c, I.

II. Determinations relating to the following health care services shall not be reviewed under this section, but shall be reviewed pursuant to the review processes provided by applicable federal or state law:

- (a) Health care services provided through medicaid, the state Children's Health Insurance Program (Title XXI of the Social Security Act), medicare or services provided under these programs but through a contracted health carrier.
- (b) Health care services provided to inmates by the department of corrections.
- (c) Health care services provided pursuant to a health plan not regulated by the state, such as self-funded plans administered by an administrative services organization or third-party administrator or federal employee benefit programs.

420-J:5-b Preliminary Review By the Commissioner. In the event that a covered person is entitled to external review and meets all of the requirements in RSA 420-J:5-a, the insurance department shall arrange for independent external review of certain health carrier determinations as follows:

I. Within 7 business days after the date of receipt of a request for external review, the commissioner shall determine whether the individual meets the criteria for external review by assessing whether:

- (a) The individual is or was a covered person under the health benefit plan;
- (b) The determination that is the subject of the request for external review meets the conditions of eligibility for external review stated in RSA 420-J:5-a, I; and
- (c) The covered person has provided all the information and forms required by the commissioner that are necessary to process a request for an external review.

II. Upon completion of the preliminary review pursuant to paragraph I, the commissioner shall immediately notify the covered person or the covered person's authorized representative in writing:

- (a) Whether the request is complete; and
- (b) Whether the request has been accepted for external review.

III. If the request is not complete, the commissioner shall inform the covered person or the covered person's authorized representative what information or documents are needed to make the request complete. The covered person or the covered

person's authorized representative shall submit such information or documentation within 3 business days of being notified that the request was incomplete.

IV. If the request for external review is accepted, the commissioner shall:

(a) Include in the notice provided to the covered person pursuant to paragraph II a statement that if the covered person wishes to submit new or additional information or to present oral testimony via teleconference, such information shall be submitted, and the oral testimony shall be scheduled and presented, within 20 days of the date of issuance of the notice. However, the notice shall also explain that oral testimony shall be permitted only in cases when the covered person provides evidence that it would not be feasible or appropriate to present only written testimony due to a physical or mental disability and the absence of an authorized representative.

(b) Immediately notify the health carrier in writing of the request for external review and its acceptance.

V. If the request for external review is not accepted, the commissioner shall inform the covered person or the covered person's authorized representative and the health carrier in writing of the reason for its non-acceptance.

420-J:5-c Standard External Review; Expedited External Review. Standard external review shall be conducted as follows:

I. The external review procedures set forth in this section shall not be utilized to adjudicate claims or allegations of health care provider malpractice, professional negligence, or other professional fault against participating providers or medical directors.

II. At the time a request for external review is accepted, the health carrier shall select an independent review organization that is certified pursuant to RSA 420-J:5-d, I to conduct the external review. Such independent review organization shall be selected from a list of at least 3 independent review organizations with which the carrier maintains a contract. The carrier shall not select the same independent review organization for each external review, but shall rotate among the organizations with which contracts are maintained, using all contracted organizations equally. The commissioner may allow the use of an independent review organization regardless of the rotation if the commissioner determines that the use such independent review organization is necessary for the fair adjudication of the case in question.

III. Within 10 days after the date of issuance of the notice provided pursuant to RSA 420-J:5-b, IV, the health carrier or its designated utilization review organization shall provide to the selected independent review organization and to the covered person all information in its possession that is relevant to the adjudication of the matter in dispute, including but not limited to:

(a) The terms of agreement of the health benefit plan, including the evidence of coverage, benefit summary or other similar document;

(b) All relevant medical records, including records submitted to the carrier by the covered person, the covered person's authorized representative, or the covered person's treating provider;

(c) A summary description of the applicable issues, including a statement of the health carrier's final determination;

(d) The clinical review criteria used and the clinical reasons for the determination;

(e) The relevant portions of the carrier's utilization management plan;

(f) Any communications between the covered person and the health carrier regarding the internal or external review; and

(g) All other documents, information, or criteria relied upon by the carrier in making its determination.

IV. Failure by the health carrier or the covered person to provide the documents and information required in paragraph III within the specified time frame shall not delay the conduct of the external review.

V. The selected independent review organization shall review all of the information and documents received from the carrier pursuant to paragraph III and any other information submitted by the covered person or the covered person's authorized representative or treating provider pursuant to RSA 420-J:5-b, IV(a) and any testimony provided. In addition to the information provided by the health carrier and the covered person or the covered person's authorized representative or treating provider, the independent review organization may consider any applicable, generally accepted clinical practice guidelines, studies or research, including those developed or conducted by the federal government, national or professional medical societies, boards and associations. The independent review organization shall consider anew all previously determined facts, allow the introduction of new information, and make a decision that is not bound by decisions or conclusions made by the health carrier

during internal review.

VI. The selected independent review organization shall render a decision upholding or reversing the determination of the health carrier and notify the covered person or the covered person's authorized representative and the health carrier in writing within 20 days of the date that any new or additional information from the covered person is due pursuant to RSA 420-J:5-b, IV(a). This notice shall include a written review decision that contains a statement of the nature of the grievance, references to evidence or documentation considered in making the decision, findings of fact, and the clinical and legal rationale for the decision, including, as applicable, clinical review criteria and rulings of law.

VII. Expedited external review shall be conducted as follows:

(a) Expedited external review shall be available when the covered person's treating health care provider certifies to the commissioner that adherence to the time frames specified in RSA 420-J:5-b and 420-J:5-c, I, II, III, IV, V and VI would seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function.

(b) Except to the extent that it is inconsistent with the provisions of this paragraph, all requirements for the conduct of standard external review specified in RSA 420-J:5-b and 420-J:5-c, I, II, III, IV, V and VI shall apply to expedited external review.

(c) At the time the commissioner receives a request for an expedited external review, the commissioner shall immediately make a determination whether the request meets the standard set forth in subparagraph VII (a) for expedited external review, as well as the reviewability requirements set forth in RSA 420-J:5-b, I. If these conditions are met, the commissioner shall immediately notify the health carrier. If the request is not complete, the commissioner shall immediately contact the covered person or the covered person's authorized representative and attempt to obtain the information or documents that are needed to make the request complete.

(d) The health carrier shall select an independent review organization that is certified pursuant to RSA 420-J:5-d, I to conduct the expedited external review. If an independent review organization is not selected to conduct the review by the health carrier, the commissioner shall select an independent review organization that has been certified pursuant to RSA 420-J:5-d, I to conduct the review.

(e) The health carrier or its designated utilization review organization shall provide or transmit the documents and information specified in paragraph III to the selected independent review organization by telephone, facsimile or any other available expeditious method within one business day of receiving the commissioner's notice of the request for expedited external review pursuant to subparagraph VII(c).

(f) When handling a review on an expedited basis, the selected independent review organization shall make a decision and notify the carrier and the covered person as expeditiously as the covered person's medical condition requires, but in no event more than 72 hours after the expedited external review is requested.

(g) If the notice provided pursuant to subparagraph VII(f) was not in writing, within 2 business days after the date of providing that notice, the selected independent review organization shall:

(1) Provide written confirmation of the decision to the covered person or the covered person's authorized representative and the health carrier; and

(2) Include the information set forth in paragraph VI

(h) An expedited external review shall not be provided for determinations made by the health carrier on a retrospective basis.

(i) A covered person shall not be held liable to either the health plan, the hospital, the physician, or the services provider for the cost of services in excess of the applicable copayment, coinsurance, or deductible incurred, pending the independent review organization's determination of an expedited external review.

VIII. The health carrier against which a request for external review is filed shall pay the cost of the external review, such costs shall not exceed \$1,500. The commissioner shall notify the independent review organizations of the cost limitation for conducting an external review. The cost for an external review may exceed \$1,500 if the commissioner determines an additional cost is necessary to ensure the fair adjudication of the case in question.

IX. An independent review organization shall maintain all standards of confidentiality. The records and internal materials prepared for specific reviews by an independent review organization under this section shall be exempt from public disclosure

under RSA 91-A.

X. An external review organization acting in good faith shall have immunity from any civil or criminal liability or professional discipline as a result of acts or omissions with respect to any external review, unless the acts or omissions constitute willful and wanton misconduct.

XI. The right to external review under this section shall not be construed to change the terms of coverage under a health benefit plan nor shall the health carrier retaliate against the covered person for exercising his or her right to an independent external review.

XII. When requested by the covered person, the commissioner shall provide consumer assistance in pursuing the internal grievance procedures and the external review process under RSA 420-J:5 and this section.

XIII. The commissioner shall report annually to the governor and the legislature on the number of grievances subjected to external review, the number of decisions resolved wholly or partially in favor of the covered person, the number of decisions resolved wholly or partially in favor of the health carrier. Such reports shall not include those cases when the health carrier reversed its decision prior to a final determination by an independent review organization or those cases when the covered person and the health carrier agree to resolve the dispute prior to a final determination by the independent review organization.

XIV. If, in any calendar year, the determination of a health carrier is overturned on 3 separate occasions for the same treatment or service by an independent review organization, the commissioner may require the health plan to provide support for the clinical guidelines in question. If, in the judgment of the commissioner, the clinical guideline in question does not have a sound clinical basis, the commissioner may notify the Utilization review accreditation committee (URAC) or the National Committee for Quality Assurance (NCQA), as appropriate. The commissioner may require the health carrier to contract with URAC or NCQA for an audit of the health carrier's compliance with those accreditation standards related to the development and application of utilization.

420-J:5-d Certification of Independent Review Organizations.

I. The certification of independent review organizations shall be conducted as follows:

(a) The commissioner shall certify independent review organizations eligible to be selected to conduct external reviews under this section to ensure that an independent review organization satisfies the minimum qualifications established under paragraph II.

(b) The commissioner shall develop an application form for initially certifying and recertifying independent review organizations to conduct external reviews.

(c) Independent review organizations wishing to be certified shall submit the application form and include all documentation and information necessary for the commissioner to determine whether the independent review organization satisfies the minimum qualifications established under paragraph II.

(d) The commissioner may determine that accreditation by a nationally recognized private accrediting entity with established and maintained standards for independent review organizations that meet or exceed the minimum qualifications established under paragraph II is sufficient for certification under this paragraph.

(e) The commissioner shall maintain and periodically update a list of certified independent review organizations.

II. To be certified under paragraph I to conduct external reviews, an independent review organization shall meet the following minimum qualifications:

(a) It shall develop and maintain written policies and procedures that govern all aspects of both the standard external review process and the expedited external review process.

(b) It shall establish and maintain a quality assurance program that:

(1) Ensures that external reviews are conducted within the specified time frames and required notices are provided in a timely manner;

(2) Ensures the selection of qualified and impartial clinical peer reviewers to conduct external reviews on behalf of the independent review organization with suitable matching of reviewers to specific cases;

(3) Ensures the confidentiality of medical and treatment records; and

(4) Ensures that any person employed by or under contract with the independent review organization adheres to the requirements of this section.

(c) It shall agree to maintain and provide to the commissioner such information as may be required to fulfill the provisions and purposes of this section.

(d) It shall assign clinical peer reviewers to conduct external reviews who are physicians or other appropriate health care providers and who:

(1) Are experts in the treatment of the covered person's medical condition that is the subject of the external review;

(2) Are knowledgeable about the recommended health care service or treatment through actual clinical experience;

(3) Hold a non-restricted license in a state of the United States and, for physicians, a current certification by a specialty board recognized by the American Board of Medical Specialties in the area or areas appropriate to the subject of the external review;

(4) Have no history or disciplinary actions or sanctions that have been taken or are pending by any hospital, governmental agency, or regulatory body; and

(5) Have agreed to disclose any potential conflict of interest.

(e) It shall be free of any conflict of interest. To meet this qualification, an independent review organization may not own or control or in any way be owned or controlled by a health carrier, a national, state or local trade association of health carriers, or a national state or local trade association of health care providers. In addition, in order to qualify to conduct an external review of a specific case, neither the independent review organization selected to conduct the external review nor any clinical peer reviewer assigned by the independent organization to conduct the external review may have a material professional, familial or financial interest in any of the following:

(1) The health carrier that is the subject of the external review;

(2) Any officer, director or management employee of the health carrier that is the subject of the external review;

(3) The health care provider or the health care provider's medical group or independent practice association recommending the health care service or treatment that is the subject of the external review;

(4) The facility or institution at which the recommended health care service or treatment would be provided;

(5) The developer or manufacturer of the principal drug, device, procedure or other therapy being recommended for the covered person whose treatment is the subject of the external review; or

(6) The covered person or the covered person's authorized representative.

(f) For the purpose of allowing in-state health care providers to act as clinical peer reviewers in the conduct of external reviews, the commissioner may determine, in specific cases, that an affiliation with a hospital, an institution, an academic medical center, or a health carrier provider network does not in and of itself constitute a conflict of interest which is sufficient to preclude that provider from acting as a clinical peer reviewer, so long as the affiliation is disclosed to the covered person or the covered person's authorized representative.

(g) The following organizations shall not be eligible for certification to conduct external reviews:

(1) Professional or trade associations of health care providers;

(2) Subsidiaries or affiliates of such provider associations;

(3) Health carrier or health plan associations; and

(4) Subsidiaries or affiliates of health plan or health carrier associations.

11 New Paragraphs; Provider Contract Standards. Amend RSA 420-J:8 by inserting after paragraph VI the following new

paragraphs:

VII. No contract between a health carrier and a participating provider shall contain any payment or reimbursement provision the terms of which creates an inducement for the provider to not provide medically necessary care to covered persons. Nothing in this section shall be construed to prohibit the use of payment arrangements between a health carrier and a participating provider or provider group which involve capitation, withholds or other arrangements. VIII. The health carrier shall provide to covered persons, in the evidence of coverage, a description for the types of financial arrangements contained in its contracts with participating providers. Such descriptions shall be set forth in clear, understandable language.

IX. Every contract between a health carrier and a participating provider shall provide that the health carrier may not remove a health care provider from its network or refuse to renew the health care provider with its network for participating in a covered person's internal grievance procedure or external review. 15 Committee Established. There is established a committee to develop guidelines for the investigation of medical directors whose determinations have been reversed by independent review organizations.

16 Membership and Compensation.

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

(a) Three members of the house of representatives, appointed by the speaker of the house.

(b) Three members of the senate, appointed by the president of the senate.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

17 Duties. The committee shall develop a specific guidelines to be used by the board of medicine in determining whether a medical director exhibits a pattern of practice that should be the subject of an investigation of the board. The committee shall solicit input from the board of medicine and the department of insurance when developing these guidelines.

18 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

19 Report. The committee shall report its findings and recommendations for proposed legislation to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 1999.

20 Repeal. RSA 420-J:5, VIII and IX, relative to external process and annual report, are repealed.

21 Effective Date.

I. Sections 15-19 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect January 1, 2000.

AMENDED ANALYSIS

This bill creates an independent external consumer appeal process to review certain determinations made by managed care entities. The bill requires health carriers that conduct utilization review and licensed utilization review entities to employ a medical director. The bill prohibits contracts between health carriers and participating providers from including provisions that create financial incentives to deny medically necessary care. The bill also requires that health insurers disclose certain information necessary for consumers to hold managed care entities accountable for health care treatment decisions.