

State of New Hampshire HOUSE RECORD

First Year of the 159th General Court Calendar and Journal of the 2005 Session

Vol. 27	Concord N.H.	Friday, June 3, 2005	No. 45
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Contains: Reports and Amendments for June 8, House Bills Amended by the Senate,
Committee of Conference Procedures, Meetings and Notices

HOUSE CALENDAR

NOTICE

The House will meet on **Wednesday, June 8th** at 10:00 a.m. Tentative future session days are June 15th or 16th and June 29th.

For the members convenience, I have asked that the dining room portion of the cafeteria remain unlocked and available throughout the afternoon on a daily basis.

If you have not already done so, you may pick up your copy of the **Black Book** in the Clerk's Office.

Chairmen and Vice Chairmen will meet on **Tuesday, June 7th** at 9:00 a.m. in Room 203, LOB.

W.
Douglas
Scamman,
Speaker

NOTICE

There will be a Republican Caucus on Wednesday, **June 8th** at **9:15 a.m.** in Representatives Hall.

Rep.
Michael
O'Neil,
Majority
Leader

NOTICE

There will be a Democratic Caucus on Wednesday, **June 8th** at **8:30 a.m.** in Rooms 205-207 of the Legislative Office Building.

Rep.
James W.
Craig,
Democratic
Leader

WEDNESDAY, JUNE 8

REGULAR CALENDAR

COMMERCE

SB 125-FN, repealing health status and geographic location as small group rating factors, clarifying certain other issues relating to small group insurance, and establishing a reinsurance mechanism.

MAJORITY: OUGHT TO PASS. MINORITY: OUGHT TO PASS WITH AMENDMENT.

Rep. Stephen T. DeStefano for the **Majority** of Commerce: This bill is the companion bill to HB 611 that was passed by the House 256-105 in March. Both the House and the Senate versions of SB 125-FN provide for substantial reform of the problems experienced in the small business health insurance market by the passage of SB 110 in 2003 (Chapter 188). SB 125, as did HB 611, eliminates the use of medical underwriting and geographic location from consideration in setting premium rates. The bill also places a band around premium rates charged to individual groups to a 3.5 to 1 ratio. This bill also creates a small employer health reinsurance mechanism that will allow insurers to look at health profiles of individuals within a group after premium rates are set for the purpose of “ceding” high risk individuals into a reinsurance pool. This will encourage new insurers with limited market penetration to participate in the small group market by affording them the opportunity to transfer costs that would be unacceptable in a small group to the reinsurance pool where the costs are spread over the whole market. This will help to relieve the financial burden that small group employers experience when one or two employees experience significant health problems. In order to cede an insured into the pool, the insurer must pay five times the annual insurance premium into the pool and absorb the first \$5000 of claims expense. This will cost the insurer up to \$30,000 per insured life for the right to cede the risk to the pool, limiting the cost burden to be absorbed by the reinsurance mechanism. The only significant difference in the two bills is in the definition of who participates in the reinsurance pool. In HB 611, the costs incurred by the pool are assessed solely to insurers participating in the small group market. SB 125 expands participation in the pool to all insurance entities that provide coverage in New Hampshire. This spreads the costs associated with high risk individuals over a much broader base, which will help to take pressure of rates in the small business market. Since the underlying concept of insurance is to spread risk over as broad a base as possible, it seems only prudent to spread these costs over the entire market. **Vote 12-8.**

Rep. Sheila T. Francoeur for the **Minority** of Commerce: The committee has spent many hours working on this important issue, and we all agree that SB 110, passed in 2003, has problems and needs to be fixed. Everyone agreed in both the Senate and the House that the vast majority of the problems created by that bill existed in the groups of 1 and groups of 2-9. According to the New Hampshire Insurance Department these groups represent only several thousand people out of the 200,000 total in the small group market, or approximately 1%. In order to fix the problem, SB 125 proposes another radical change in our insurance regulations which will have a dramatic impact on the New Hampshire insurance market. SB 125 attempts to fix the problem. The unintended consequences of that are many of the new carriers who have recently come into the state have testified that they will leave. Others, such as AETNA Insurance, who are considering coming into the state, have said they will not. These companies have been offering new, innovative and cost effective plans such as Health Savings Accounts (HSA's). Additionally, the department estimates that over 45% of the small group market will experience a dramatic increase in health insurance rates. Finally, SB 125 will create a reinsurance pool which levies an assessment on every covered life in the state. The fiscal note attached to this bill estimates that this assessment will cost the state employee health insurance plan \$250,000 the first year, increasing to almost \$500,000 within four years. This assessment would also be levied against all county and municipal insurance plans. Health insurance companies, insurance agents, and small business organizations unanimously agree that the reinsurance mechanism included in SB 125 is too costly and administratively cumbersome. Concerns were also raised about the fact that the reinsurance mechanism in SB 125 is aimed at subsidizing the losses of health insurance companies and not reducing health insurance costs for small businesses. The minority believes that any major reforms to this market should be accompanied by a legislative oversight committee, however, supporters of SB 125 were unwilling to consider any changes to the Senate's version of this bill. The minority amendment will correct the problems created by passage of SB 110 in 2003. It will also attract new insurance carriers to the

state while encouraging those currently in the state who offer innovative, creative and affordable products to stay. The end result will be a stable market place serving the people of New Hampshire.

SPECIAL ORDER

SB 196, requiring a hearing when medical malpractice insurance rates change. **INEXPEDIENT TO LEGISLATE**

Rep. James F. Headd for Commerce: New Hampshire is a “file and use” state meaning the insurance carrier establishes a date then files for insurance department approval. The carrier that offers medical malpractice insurance coverage traditionally files its new rates with the department two to three months before implementing them. This is done because the carriers do not want to incur the information technology cost to set up and then be faced with the prospect of having to reconfigure. Additionally, a right of appeal already exists in statute for persons or other entities who believe they are being overcharged. The committee felt that there is currently no problem with the way these rates are filed. **Vote 16-2.**

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

SB 170, revising the nurse practice act. **OUGHT TO PASS WITH AMENDMENT**

Rep. Charlotte Houde-Quimby for Executive Departments and Administration: This is a major revision of the nurse practice act, the first major revision in decades. This bill clarifies the parameters of Scope of Practice for all nurses and also clarifies the difference between Advanced Registered Nurse Practitioner (ARNP) categories and Scope of Practice. The committee felt that it was important to assure legislative approval for Scope of Practice. No new advanced specialty categories that have not been approved by a national credentialing body may be recognized by the New Hampshire board without the approval of the legislature. This bill also addresses the separate issue of how advanced registered nurse practice specialty categories are created through national accrediting bodies approved by the New Hampshire State Board of Nursing. Continuing competence requirements were reviewed and delineated. The bill retains the criminal background checks required for New Hampshire nurses but does not require such checks for compact nurses. This differentiation is necessary for New Hampshire to participate in the multi-state nursing compact which was approved in previous legislation. This bill includes a duty to warn and privileged communication requirements for all licensees. Some members of the committee felt that this provision should be restricted (as it is today) to psychiatric ARNPs who have a therapeutic relationship with clients. **Vote 14-0.**

FINANCE

SPECIAL ORDER

SB 113-FN, relative to the use of federal funds for technology improvements within the department of employment security. **OUGHT TO PASS**

Rep. Joseph E. Stone for Finance: There are federal funds made available to this state under section 903(d) of the Social Security Act, 42 USC section 1103d. These funds are to be used under the direction of the NH Department of Employment Security for the purpose of developing and implementing a new automated unemployment compensation benefit system including the upgrade or replacement of critical interfaces. Funds may include providing funds for hardware, software, equipment, staffing, technology maintenance that are in accordance with any user authorized by the United States Congress now or in the future. **Vote 22-0**

SPECIAL ORDER

SB 146-FN-A-L, establishing a civil legal services fund consisting of court filing fee surcharges for the purpose of establishing and operating a New Hampshire Legal Assistance office in Nashua and to provide for additional staff in other New Hampshire Legal Assistance offices. **OUGHT TO PASS**

Rep. Robert L. Wheeler for Finance: This bill is a follow-up to the pilot program operated by New Hampshire Legal Assistance in Littleton. The legislature appropriated \$480,000 which in turn resulted in over \$1,400,000 in benefits to New Hampshire people, which were both needed individually and contributed to a healthy economy. The program has been endorsed universally and therefore, as a next step, this bill establishes a Civil Legal Services fund supported by a court filing fee surcharge of \$20.00 which will be used to establish and operate an office in Nashua and to provide in other New Hampshire Legal Assistance offices to further the good works produced in the Littleton pilot. **Vote 19-3.**

JUDICIARY

SB 214, relative to screening panels for medical injury claims. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS.**

Rep. Bette R. Lasky for the **Majority** of Judiciary: Senate Bill 214 is a measure that would alter the system by which our state's civil justice system processes medical malpractice litigation. The bill as passed by the Senate and with the amendment recommended by the committee would create a pre-trial system of screening medical malpractice cases in our superior courts. The screening panel consists of a doctor practicing in the same or similar specialty as the defendant, a judge, and a lawyer. These individuals have the expertise and experience to evaluate the information presented without the expense and time of a "mini-trial." SB 214 as amended preserves the screening panel provided for in the original bill, but streamlines its procedure by limiting evidence at the hearing to offers of proof rather than formal testimony. It creates a true screening panel, designed to separate meritorious from non-meritorious cases, to determine if there is sufficient evidence to raise a legitimate question of liability. If a panel hearing cannot be achieved within 6 months, the case shall be screened by a single justice of the superior court within 45 days who will then determine if the evidence presented is sufficient to raise the question of liability. Any controversy not resolved by agreement of the parties in light of the screening opinion would then be submitted to a mediator for mandatory mediation within forty-five days. If the mediation process is not successful, the parties would then proceed to trial in the normal fashion. In neither instance does the screening panel or screening judge determine anything other than merit or non-merit and does not determine in any way a "winner" or a "loser." There will be no findings admissible to the jury to interfere in any way with the right to an impartial jury. The amendment is the product of extensive study undertaken in response to the numerous questions raised by the bill and by the competing claims of the medical and legal professions concerning it. Over the past three months, the committee has heard scores of hours of testimony and received hundreds of pages of information. Following an initial seven-hour public hearing, the committee scheduled further hearings to which it invited experts in various disciplines implicated in the bill, including representatives of the New Hampshire Insurance Department, the Joint Underwriters Association, the New Hampshire Center for Policy Studies, the Board of Medicine, Franklin Pierce Law Center, and the founder of the former Matthew Thornton Health Clinic. Testimony was virtuously unanimous that there are no frivolous lawsuits filed in New Hampshire, that New Hampshire's courts and juries do not award excessive verdicts, and that few non-meritorious suits are filed. Further, punitive damages are prohibited in New Hampshire, and we already have in place a statutory penalty that adequately deters frivolous lawsuits. Finally, even insurance specialists acknowledge that the installation of a Maine screening panel system will not lower medical malpractice insurance premiums, but, at best may stabilize their increase. The Bureau of Insurance of the State of Maine has acknowledged being unable to conclude that its system has been a factor impacting either the cost of health care generally or medical liability insurance in particular. The committee learned that Maine's system is not functioning satisfactorily procedurally in a number of ways. Most significant is that the average wait for assembling a panel is at least 1.7 years because of the difficulty in avoiding conflicts of interest in a state with a relatively small number of physicians in any given specialty and in particular the difficulty of locating physicians qualified to serve who not only do not know the defendant physician or the attorneys involved and who are not insured by the same entity as the defendant physician. Although the Supreme Court of Maine has found its screening panel statute constitutional under that state's constitution, according to NH constitutional experts, it is by no means certain that a similar bill here would pass constitutional muster under the unique terms of Article 20 of our Bill of Rights, which states that the right to trial by jury "shall be held sacred." The bi-partisan majority of the Judiciary Committee believes SB 214 as amended is a reasoned compromise to SB 214 as introduced and is a means toward achieving the right balance for New Hampshire's physicians and its citizens who need access to the courts for wrongful medical injuries. **Vote 12-6.**

Rep. John B. Hunt for the **Minority** of Judiciary: SB 214 without amendment, represents a bi-partisan, 3+ year effort to help improve the medical liability climate in New Hampshire in order to protect access to critical medical specialty care. We need to keep our medical specialists here and we need to be able to attract and recruit new physicians to the Granite State. In 2003, the NH Legislature created a commission that studied the existing, ineffective pre-trial screening panel law, RSA 519-A. As a result of the commission's work, HB 1413 was introduced in 2004. That bill, based on the 20-year old successful Maine law, was amended and passed by the House; then further

amended by the Senate. The bill died in a committee of conference last year. SB 214 is also modeled after the Maine law with improvements and compromises. The supporters believe that SB 214 strikes the right balance of protecting the rights of injured parties while encouraging early settlements to reduce administrative costs which ultimately reduces costs overall. The panel system in SB 214 will weed out non-meritorious claims and get meritorious cases resolved as soon as possible. (Frivolous is not the same as non-meritorious.) As many House members know, a five-member OB/GYN group from Rochester left and moved to Kittery, Maine, last December in part because they could no longer afford the high medical liability premiums in our state. The committee heard anecdotal testimony that other OBY/GYNS are now limiting their practices to elective surgery and stopping head trauma care altogether in order to be able to afford their liability premiums. New Hampshire needs to do something NOW. If we pass SB 214 without amendment, the liability companies that insure NH health care providers will immediately have 20 years of actuarial data from Maine upon which to base new rating decisions. We can hit the ground running. The proposed amendment to SB 214 is NOT a compromise; it is a totally new “animal.” It represents a gamble for NH. Will the new system it creates actually reduce costs associated with medical liability cases? We don’t know, although we do think it is more likely to increase costs than to decrease them, and neither will the liability insurance companies. The supporters of SB 214, without amendment, fear that waiting to see if the SB 214 amendment/experiment affects insurance premiums is time we do not have. It is not fair to the citizens of New Hampshire. SB 214 as it came to us from the Senate offers a quicker and less expensive way to resolve medical liability cases. Two reports from Medical Mutual Insurance Company of Maine show that patients with meritorious cases have their claims resolved sooner and they end up with a larger portion of the settlement. Both plaintiffs and defendants maintain their right to go to a jury trial! The amendment offered on SB 214 has a lower standard of proof and any decision made by the panel or the screening judge is not admissible. What is the point then of making any effort to participate in the process? It just sets up additional steps that offer absolutely no benefit to either the plaintiff or the defendant. The minority believes that one of the reasons that NH’s current voluntary pre-trial system (RSA 519-A) does not work is because the panel results are inadmissible! The success of the Maine law is that all parties make their best effort at the panel hearing because unanimous panel decisions ARE admissible. (Split decisions are not admissible.) Without maintaining a higher standard of proof and without admissibility of unanimous panel decisions, we may as well walk away and keep the current ineffective NH law on the books. Some of the opposition to SB 214, unamended, is based on supposed constitutional defects. We believe that SB 214 will withstand a constitutional challenge. The Maine Supreme Judicial Court addressed the issue and upheld the Maine system with recommendations to protect against potential jury confusion. Those recommendations were written directly into SB 214. The system in SB 214, unamended, has been proven effective in meeting the goal of reducing upward rate pressure on medical liability insurance rates by reducing costs. It thus bears a fair and substantial relationship to the legislative goal of ensuring access to medical care that is being hurt by spiraling insurance rates. The right to jury trial simply isn’t affected – no claimant, meritorious or not, is prevented from taking a case to jury trial, and juries are not prevented from considering any issue. On the contrary, the jury would be carefully instructed that it is at liberty to give whatever consideration it thinks is appropriate to a unanimous panel decision – it is not bound in any way. One member of the minority of the committee disagrees with the rest of the minority and believes the bill should just be killed. Because only one minority report is allowed under the rules, as a courtesy to him, we are including his position in this report for the benefit of the entire House. This one member believes the bill is unconstitutional because it interferes with the right of an injured person to have access to the courts. The member believes that, under the bill, a plaintiff has an extra hoop to jump through before he or she can get to the constitutional arbiter of disputes, the jury. He believes the bill will increase costs to begin a case, and raise the level that a case must be worth before an attorney can afford to take it on. He believes this will hurt the ones who need relief most, the poor who now have unexpected medical bills and no means to pay them. Further, the member believes we have no evidence that there is a problem in New Hampshire with the type of frivolous lawsuits that this panel system would eliminate. He also believes that mediation that is in the amendment is a great idea, but making it mandatory and then requiring the parties to pay for it is unjust. For these reasons one member of the minority believes this bill should be killed. However, the majority of the minority of the Judiciary Committee wants to adopt the type of meaningful reform contained in SB 214, as it came to us from the Senate. We urge the members of the House to vote against adoption of the committee amendment and then vote “ought to pass” on

SB 214. New Hampshire must be able to tell the physicians, nurses, hospitals and patients of this state that we stood up for their concerns by supporting and voting for SB 214 without amendment.

RESOURCES, RECREATION AND DEVELOPMENT SPECIAL ORDER

SB 121, relative to all terrain vehicle trails and relative to the regulation of off highway recreational vehicles by a political subdivision. **OUGHT TO PASS WITH AMENDMENT**

Rep. David H. Russell for Resources, Recreation and Development: This bill provides that a proposed ATV or trail bike trail shall not pass within 400' of a water well supplying a public water system. The bill also establishes a procedure for a proposed trail that will pass through a wellhead protection area. It addresses concerns with MTBE from trails near wells, and opens the 4000' limit to be the wellhead protective area without a specific limit. It also requires the Department of Environmental Services (DES) to show any impact the trail may have as well as the process for the community to appeal to the water council per RSA 21-07 IV. **Vote 11-0.**

STATE FEDERAL RELATIONS AND VETERANS AFFAIRS

HR 16, requesting that the New Hampshire congressional delegation support optional Social Security personal retirement accounts. **INEXPEDIENT TO LEGISLATE**

Rep. Barbara E. Shaw for State-Federal Relations and Veterans Affairs: The consensus of the committee is that personal retirement accounts are only one part of a suggested social security revision. The bill negates other options. The entire program is still in the discussion stage and other options may still be necessary for a complete final plan. To rule out any viable options at this time is premature. **Vote 7-4.**

WAYS AND MEANS SPECIAL ORDER

SB 63-FN-A, establishing a court mediation fund to pay the costs of a mediation program in the district courts. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Roger G. Wells for the **Majority** of Ways and Means: The majority of Ways and Means agrees with Judiciary that mediation is a valuable new resource which will be available to small businesses and individuals to settle small claims actions. This bill allows the district court to increase the filing fee in small claims cases by \$5.00 in order to provide paid professionals to mediate up to 1400 small claims cases per year. The courts have indicated that this service would be available initially in at least one court in each county and in all district courts in the state within one year. Introduction of mediation would result in reducing the backlog of cases in many courts, providing swifter service not only for those choosing mediation, but for all small claims actions. **Vote 13-4.**

Rep. Steve Vaillancourt for the **Minority** of Ways and Means: This bill came to Ways and Means after passing the Senate, House Judiciary, and passing on the House floor two weeks ago. The minority of Ways and Means concurs with everything except the funding mechanism. The minority is convinced that the type of mediation at the district court level that this bill calls for is a good idea. The mediation would most likely relieve the work burden on judges, and the minority also concurs that disputes settled in such a manner would likely lead to prompter collections by the prevailing party. However, the minority takes seriously the role of Ways and Means in assuring that programs which pass this House are properly funded. Quite clearly, for no less than four separate reasons, that is not the case with the \$5 increase in the filing fee, up from \$55 to \$60, being used to pay for mediation. First, as court officials acknowledged, it will not be possible to implement mediation programs in all district courts statewide for as much as a year. Thus, numerous people will be paying the additional \$5 but would not be eligible to receive the service in the court of their choice. Secondly, all filers in district court would be required to pay the additional \$5 per filing (an estimated 18,000 per year), not simply those who opt to use the mediation service. Third, then there's the matter of cost. Bill proponents note that the \$90,000 raised would be used to pay for mediators, who in the trial programs volunteered their time. They would be paid \$60 for what will amount to an average of one hour's work. They would not have to be trained lawyers or court personnel, yet simple math reveals that were they to work full time at this job, their salary would amount to \$120,000 a year, some \$3200 more than district court judges are paid! And they would only handle 1400 of the estimated 18,000 cases filed. Fourth, even more troubling with the funding mechanism for this bill is the inevitable conclusion that must follow, that justice in New Hampshire

can be bought and paid for. We are reduced to treating this filing or entry fee as something of a service charge. Instead of paying a judge a salary out of general funds, we are allowing a specially paid mediator to handle the task. Clearly, this is not the purpose of a filing fee, and no matter how noble a cause, this is the wrong direction to go. Some counter that by saying, "It's the New Hampshire way. We've abused filing fees for years and years." It's time to put a stop to this abuse, and the minority strongly believes we should draw the line when it comes to justice. We should no more charge extra for mediation and call it a filing fee than we should charge every parent an enrollment fee to help alleviate teachers salaries when children are enrolled in school.

SB 91-FN, relative to an increase in the co-payment for participation in the animal population control program. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Howie Lund for the **Majority** of Ways and Means: This bill will increase the animal neutering co-payments by \$10.00 for those residents that qualify. Under current law, the animal owner has to provide a co-payment of \$30.00 for Plan A (adopted animals) and \$15.00 for Plan B (animals owned by people on government support programs). The Animal Control Program has greatly helped in reducing costs to municipalities as it relates to animal overpopulation. This program has been responsible for over 46,000 neutering surgeries over the last ten years. This change in the co-payments will allow for approximately 500 additional neuterings per year. The Department of Agriculture has determined this bill may decrease state restricted expenditures by \$45,880 in FY 2006 and each year thereafter. There will be no fiscal impact on county and local expenditures or state, county and local revenues. **Vote 11-5.**

Rep. Kevin L. Camm for the **Minority** of Ways and Means: This bill increases the fees for participation in the animal population control program (APCP) by \$10 for each dog and cat. The APCP has been highly successful at reducing the number of stray dogs and cats, thus reducing euthanasias. Dog owners have been growling since they solely fund the state portion of the program. Last year those license fees amounted to approximately \$300,000. Dog owners have been scratched and clawed enough. This program is utilized 80% by cats to 20% by dogs. The minority believes we should take a bite out of this inequality. Cat owners should bear a fairer burden of the expense of the program. For example an amendment could be prepared that raises the fees only on cats and leaves the dogs alone. The bill should be re-committed to the committee for such an evaluation that strives for equal fiscal treatment, otherwise the bill should be ITL.

NOTICE

Please note that the Calendar closes at 3:00 p.m. on Wednesdays for scheduling and notices. It closes at 1:00 p.m. on Thursdays for Committee Reports. Members and staff who need to schedule meetings should make arrangements with the Clerk's Office for room availability/assignment and publication of meeting notices.

Karen O.
Wadsworth,
Clerk of the
House

LAID ON TABLE

HB 98, relative to law enforcement authority under the safe schools act. (Pending question is the adoption of the committee amendment.)

HB 219, relative to permitting audio and video recording on school buses. (Pending question is the adoption of the committee report of ought to pass with amendment.)

HB 563-FN-A, increasing the tobacco tax. (Pending question is the adoption of the majority committee report of inexpedient to legislate.)

HR 15, affirming revenue estimates for fiscal years 2005, 2006, and 2007. (Pending question is third reading.)

HOUSE DEADLINES

Wednesday, June 8, 2005	Last day to act on Senate bills
Thursday, June 16, 2005	Last day to form Committees of Conference
Wednesday, June 22, 2005 at 3 pm	Last day to sign Committee of Conference

	reports
Wednesday, June 29, 2005	Last day to act on Committee of Conference reports
Monday, September 12, 2005	First day to file legislation for the 2006 session
Friday, September 23, 2005	Last day to file legislation for the 2006 session

HOUSE BILLS AMENDED BY THE SENATE

HB 83, repealing the obligation to provide persons applying for a marriage license with a list of family planning services and with brochures on fetal alcohol syndrome and the human immunodeficiency virus. (House Nonconcurrent; C-of-C 5/4/05)

HB 86, relative to property held in police department property rooms. (House Concurred 5/4/05)

HB 97, relative to replacing school budget committee members. (House Concurred 5/4/05)

HB 112, relative to psychiatric evaluations in competency hearings. (House Concurred 5/25/05)

HB 125, relative to ignition interlock devices. (SJ 5/19/05)

HB 129-FN-L, establishing a high performance school incentive. (SJ5/26/05)

HB 132, relative to the grounds for dismissal of a teacher. (SJ 5/26/05)

HB 145, relative to the healthy kids corporation. (SJ 5/26/05)

HB 152-FN, establishing a commission to study the uses of biodiesel for home heating and vehicular transportation. (House Concurred 5/25/05)

HB 157, establishing a commission to study procurement methods for public works projects by state and local government agencies. (House Concurred 5/25/05)

HB 158, relative to Auburn, Exeter, and Hampton District Courts. (SJ 5/26/05)

HB 195, establishing a committee to study the department of insurance. (House Concurred 5/25/05)

HB 199, relative to fish and game department expenditures for marine fisheries. (House Concurred 5/25/05)

HB 204-FN, relative to unauthorized video surveillance. (SJ 5/26/05)

HB 214, permitting the parents or legal guardian of a sexual assault victim to remain with the victim during the legal proceedings. (House Concurred 6/1/05)

HB 229, extending the committee to study the establishment of a farm viability program. (House Concurred 5/11/05)

HB 230-L, relative to default budgets. (House Nonconcurrent; C-of-C 5/25/05)

HB 236, relative to the time for filing a motion to rehear a zoning decision. (House Concurred 5/25/05)

HB 248, authorizing semi-annual payments of school building aid. (SJ 5/26/05)

HB 255, establishing a committee to study the pricing of milk. (SJ 5/12/05)

HB 260-FN, relative to motor vehicle equipment and registration. (House Concurred 6/1/05)

HB 263, relative to the use of design build and construction management methods for state capital projects. (House Concurred 5/4/03)

HB 269, establishing a statutory committee for the protection of human research subjects. (SJ 5/26/05)

HB 280, relative to the manner of service in divorce and child custody proceedings. (House Concurred 5/4/05)

HB 286, prohibiting the operation of pocket bikes and motorized scooters upon ways. (House Concurred 5/25/05)

HB 288-FN, establishing a commission to effect the process for the town of Killington, Vermont to become part of the state of New Hampshire. (House Concurred 6/1/05)

HB 293, establishing a commission to study the feasibility of developing a materials resource and recovery facility in Sullivan county. (House Nonconcurrent; C-of-C 6/1/05)

HB 303-FN, relative to the fire standards and training commission. (House Concurred 5/4/05)

HB 307, establishing a committee to study the feasibility of licensing residential building and remodeling contractors. (SJ 5/26/05)

HB 313-FN, relative to registration of business entities. (House Nonconcurrent; C-of-C 5/25/05)

HB 323-FN, relative to excluding social security numbers and other information from documents filed with registries of deeds. (SJ 5/26/05)

HB 329, establishing the crime victim employment leave act. (House Concurred 5/25/05)

HB 332, relative to harassment by telephone. (House Concurred 5/25/05)

HB 353, relative to consent to haul lobster and crab gear of license holders. (House Concurred 5/25/05)

5/25/05)

HB 382, establishing a committee to develop a strategic capital plan for department of corrections' facilities. (House Concurred 5/25/05)

HB 401-FN-A, making an appropriation to the Seacoast Shipyard Association. (House Concurred 5/4/05)

HB 421, relative to effective dates. (House Concurred 6/1/05)

HB 428, relative to clarifying the authority of the Pease development authority and the division of ports and harbors. (House Nonconcurrent; C-of-C 5/25/05)

HB 430-FN-A, establishing a one-day resident fishing license. (House Concurred 6/1/05)

HB 440, relative to hearing ear dogs, guide dogs, and service dogs. (House Concurred 5/25/05)

HB 447-FN, relative to black bear license and tag fees. (House Concurred 5/11/05)

HB 469, regulating disputes between homeowners and contractors relative to residential construction defects. (House Concurred 5/4/05)

HB 472, relative to the definition of recreational program. (House Concurred 6/1/05)

HB 478-FN-A, making an appropriation for "Newsline for the Blind. (SJ 5/26/05)

HB 481, establishing a commission to study the location of the secure psychiatric unit and places to which persons are committed under RSA 651:8-b, RSA 171-B, and RSA 623:1. (House Nonconcurrent; C-of-C 5/25/05)

HB 487-FN, establishing a volunteer lake assessment program in the department of environmental services. (House Concurred 5/25/05)

HB 512, establishing a commission to study property tax relief and reverse mortgages. (House Concurred 5/4/05)

HB 513, relative to on-board diagnostic system inspections. (House Nonconcurrent; C-of-C 5/11/05)

HB 549, modifying notice requirements for the acceptance of unanticipated funds by a school district, city, town or public library. (SJ 5/26/05)

HB 580, establishing a commission to study the procedures for the formation and dissolution of solid waste management districts under RSA 53-B and the procedures for the dissolution of an interstate waste compact under RSA 53-D. (House Nonconcurrent; C-of-C 5/25/05)

HB 597-FN-A, relative to the natural heritage inventory program. (SJ 5/26/05)

HB 602-FN-A, relative to the unbundling of communications services for purposes of the application of the communications services tax. (SJ 5/26/05)

HB 618-FN-L, relative to persons acting as volunteers to a state agency. (SJ 5/26/05)

HB 628-FN, relative to the authority of law enforcement officers to close an area for the purpose of abating a threat to public health or safety. (SJ 5/26/05)

HB 640-FN, relative to parental rights and responsibilities. (SJ 5/26/05)

HB 643-FN, establishing an integrated criminal justice information system. (SJ 5/26/05)

HB 672-FN, relative to notaries public, justices of the peace, and adopting the Uniform Law on Notarial Acts. (House Concurred 5/25/05)

HB 697-FN, establishing a commission to study medicaid reimbursement rates for pharmacy providers. (House Concurred 5/11/05)

HB 720-FN, relative to special number plates. (SJ 5/26/05)

HCR 2, declaring October 27 to be Boston Red Sox Day. (SJ 5/26/05)

HCR 4, urging Congress to find that the Piscataqua River and Portsmouth Harbor lie within the state of New Hampshire. (SJ 5/26/05)

HCR 10, recognizing February 8, 2005 as Scouting in New Hampshire Day. (SJ 5/26/05)

2005 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 recommend that the House concur, non-concur, or non-concur and request a Committee of Conference.
- When a committee requests that the bill be sent to a Committee of Conference, the Chairman will recommend members for appointment. If the bill has gone to more than one committee, the members may come from the different committees as determined by the Speaker. Chairmen should recommend only those members from their policy committees. The Speaker shall make the final decision of Conference committee members.

- The **first named House member shall serve as Chairman of the House Conferees**. For House bills in Committee of Conference, the House Conferee 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)]. If a Committee of Conference meeting recesses, the reconvening time shall be posted in the Clerk's office and outside the committee room.
- The House and Senate Conferees 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 that 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 (g)]
- The sponsor of a bill that is in Committee of Conference shall, upon request, be provided an opportunity to be heard.
- A unanimous vote of both the House and Senate Conferees, 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 (Wednesday, June 22, 2005 at 3:00 p.m.).** All Committee of Conference members must sign their 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.** This "blurb" should contain a complete explanation of all changes made to the bill since it was passed by the House and must be submitted to the House Clerk 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 (f)].

See House Rules and HCR 11 for more information

COMMITTEES OF CONFERENCE

HB 83, repealing the obligation to provide persons applying for a marriage license with a list of family planning services and with brochures on fetal alcohol syndrome and the human immunodeficiency virus. (Reps. Stohl, Dowd, Brundige and N. Johnson)

HB 230-L, relative to default budgets. (Reps. Brundige, Gillick, Dowd and N. Johnson)

HB 293, establishing a commission to study the feasibility of developing a materials resource and recovery facility in Sullivan county. (Reps. Williams, Phinizy, O'Connell and Babson)

HB 313-FN, relative to registration of business entities. (Reps. S. Francoeur, C. Clark, Reardon and Jasper)

HB 428, relative to clarifying the authority of the Pease development authority and the division of ports and harbors. (Reps. Graham, Rausch, McConkey and Benn)

HB 481, establishing a commission to study the location of the secure psychiatric unit and places to which persons are committed under RSA 651:8-b, RSA 171-B, and RSA 623:1. (Reps. Millham, Dalrymple, Houde-Quimby and Irwin)

HB 513, relative to on-board diagnostic system inspections. (Reps. Packard, Nedeau, Ferland and O'Neil)

HB 580, establishing a commission to study the procedures for the formation and dissolution of solid waste management districts under RSA 53-B and the procedures for the dissolution of an interstate waste compact under RSA 53-D. (Reps. Babson, Phinizy, Hansen and Merrick)

COMMITTEE MEETINGS

TUESDAY, JUNE 7

ELECTION LAW, Room 308, LOB

9:30 a.m. **Retained** subcommittee work session on **HB 282**, establishing a committee to study issues relating to voter registration and identification requirements, **HB 345**, requiring photo identification to obtain a ballot, **HB 347**, requiring proof of identity for voter registration, **HB 391**, relative to voter registration forms for students, **HB 501**, relative to proving qualifications to vote, requiring identification to obtain a ballot, and relative to citizenship on New Hampshire identifications and **HB 639-FN**, relative to voter registration.

FINANCE, Rooms 210-211, LOB

10:00 a.m. Full committee work session.

HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS, Room 205, LOB

10:00 a.m. **Retained** subcommittee work session on **SB 110-FN-A**, establishing the New Hampshire Rx plus program for prescription drugs.

IMPLEMENTING A RECOMMENDATION OF THE NEW HAMPSHIRE ESTUARIES PROJECT MANAGEMENT PLAN (SB 70, Chapter 236:1, Laws of 2003), Nowak Room, Exeter Town Office, 10 Front Street, Exeter

8:30 a.m. Regular meeting.

MUNICIPAL AND COUNTY GOVERNMENT, Room 307, LOB (Please note room change.)

10:00 a.m. **Retained** subcommittee work session on **HB 581**, relative to approval and review of municipal charters.

1:30 p.m. **Retained** subcommittee work session on **HB 410**, relative to the confidentiality of documents submitted with an application for a property tax credit, exemption, or deferral.

STATE FEDERAL RELATIONS AND VETERANS AFFAIRS, Rooms 301- 303, LOB

10:00 a.m. Committee meeting with Congressman Bradley.

11:30 a.m. Committee meeting with Congressman Bass.

STATE VETERANS' ADVISORY COMMITTEE (RSA 115-A:2), State Veterans' Home, Tilton

5:00 p.m. Regular meeting.

WAYS AND MEANS, Room 202, LOB

10:00 a.m. Full committee work and executive session on pending legislation and revenues, if needed.

WEDNESDAY, JUNE 8

CHILDREN AND FAMILY LAW, Room 206, LOB

Immediately following the House session, full committee work session on Senate messages.

Full committee work session on **retained HB 529**, establishing a presumption in favor of shared parental rights and responsibilities.

FISH AND GAME, Room 305, LOB

8:30 a.m. **Retained** subcommittee work session on **HB 254-FN**, establishing additions to lifetime hunting and fishing licenses for certain activities.

THURSDAY, JUNE 9

CHILDREN AND FAMILY LAW, Room 206, LOB

10:00 a.m. **Retained** subcommittee work session on **HB 327**, relative to enforcement of support orders.

ENVIRONMENT AND AGRICULTURE, Room 307, LOB

- 10:00 a.m. **Retained** subcommittee work session on **HB 544**, relative to the land and community heritage program.
- 11:00 a.m. **Retained** subcommittee work session on **HB 722**, relative to the spreading of biosolids in certain designated areas.
- 1:00 p.m. **Retained** subcommittee work session on **HB 634-FN-A**, establishing a state recycling program to provide technical services to municipalities and establishing a fee on disposable and recyclable goods sold at retail.

FISH AND GAME

- 1:00 p.m. Tour of Essex Fish Elevator in Lawrence, MA.

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

- 10:00 a.m. **Retained** subcommittee work session on **HB 245**, establishing a committee to study property appraisals of features of land and the view from residential property and unimproved land.
- 1:30 p.m. **Retained** subcommittee work session on **HB 121**, relative to local land use approval for facilities requiring air pollution control permits.

STATE FEDERAL RELATIONS AND VETERANS AFFAIRS, Room 303, LOB

- 10:00 a.m. Presentation by the Air/Army National Guard.

TASK FORCE ON DEAFNESS AND HEARING LOSS (HB 225, Chapter 117:2, Laws of 2003), Room 205, LOB

- 10:00 a.m. Regular meeting.

FRIDAY, JUNE 10**ASSESSING STANDARDS BOARD (RSA 21-J:14-a), NH Department of Revenue Administration, 57 Regional Drive, Concord**

- 9:30 a.m. Regular meeting.

COMMISSION TO STUDY THE RELATIONSHIP BETWEEN PUBLIC HEALTH AND THE ENVIRONMENT (HB 1390, Chapter 114:2, Laws of 2000), Room 205, LOB

- 10:00 a.m. Infrastructure subcommittee meeting.

MONDAY, JUNE 13**COMMISSION TO EXAMINE ALL ASPECTS OF SAME SEX CIVIL MARRIAGES AND ITS LEGAL EQUIVALENTS (SB 427, Chapter 100:2, Laws of 2004), Room 208, LOB**

- Noon Regular meeting.

GUARDIANS AD LITEM BOARD (RSA 490-C:1), Room 102, LOB

- 1:00 p.m. Regular meeting.

TUESDAY, JUNE 14**ELECTION LAW, Room 308, LOB**

- 9:30 a.m. **Retained** subcommittee work session on **HB 282**, establishing a committee to study issues relating to voter registration and identification requirements, **HB 345**, requiring photo identification to obtain a ballot, **HB 347**, requiring proof of identity for voter registration, **HB 391**, relative to voter registration forms for students, **HB 501**, relative to proving qualifications to vote, requiring identification to obtain a ballot, and relative to citizenship on New Hampshire identifications and **HB 639-FN**, relative to voter registration.

WEDNESDAY, JUNE 15**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 Environmental Services financial and compliance audit report for fiscal year ended June 30, 2004.

FRIDAY, JUNE 17

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

9:00 a.m. Regular meeting.

EQUALIZATION STANDARDS BOARD (RSA 21-J:14-c), NH Department of Revenue Administration, 57 Regional Drive, Concord

9:00 a.m. Regular meeting.

MONDAY, JUNE 20

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

1:00 p.m. Regular meeting.

COMMISSION TO STUDY THE RELATIONSHIP BETWEEN PUBLIC HEALTH AND THE ENVIRONMENT (HB 1390, Chapter 114:2, Laws of 2000), Room 205, LOB

9:30 a.m. Regular meeting.

NH-CANADIAN TRADE COUNCIL (RSA 12-A:2-g), Senate Conference Room 306, State House

10:00 a.m. Regular meeting.

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

9:00 a.m. Regular meeting.

9:15 a.m. Rulemaking hearing.

OFFICIAL NOTICES

REVISED FISCAL NOTES

The following HBs and SBs have revised fiscal notes: HBs 25, 47, 59, 60, 71, 72, 83, 100, 104, 114, 116, 128, 130, 152, 153, 159, 190, 210, 215, 216, 234, 239, 240, 263, 272, 302, 303, 304, 313, 339, 401, 430, 431, 432, 433, 456, 457, 460, 477, 513, 535, 594, 599, 601, 602, 603, 604, 605, 606, 607, 609, 611, 612, 613, 614, 615, 616, 617, 618, 619, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 632, 633, 635, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 661, 662, 663, 664, 665, 670, 672, 674, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 701, 703, 704, 708, 713, 716, 718. SBs 21, 27, 38, 52, 53, 58, 79, 86, 93, 101, 108, 110, 112, 117, 125, 137, 140, 147, 152, 165, 170, 206, 208, 210, 215.

Karen O.
Wadsworth,
Clerk of the
House

Lucy Harrison in the Speaker's Office keeps a schedule of House events. To avoid conflicts, anyone wishing to hold an event should check with Lucy at 271-3661 for available dates and times.

Rep.
Michael
O'Neil,
Majority
Leader

Pursuant to RSA 326-B:12, the Joint Health Council will meet at the NH Board of Nursing Office, Walker Building, 21 South Fruit Street, Concord, on Monday, **June 6** at 6:00 p.m.

Karen O.
Wadsworth,
Clerk of the
House

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 as requested.

John R.M. Alger, 935 East Rumney Road, Rumney 03266-3037

Peter R. Cote, 68 Bowers Street, Nashua 03060-3927

Eric Palangas, 626 Lake Avenue, Manchester 03103-3537.

Frank J. Palazzo, PO Box 321, Seabrook 03874-0321.

Colleagues who so desire may send cards and greetings to the address listed above.

Karen O.
Wadsworth,
Clerk of the
House

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 legislative social activities and political meetings or events. Publication should not be construed as support for either the events listed or the views espoused by the individual or organization sponsoring the event.

As a follow-up to the seminar on methamphetamines that was hosted by Health, Human Services and Elderly Affairs Committee Chairman, Peter Batula, a couple of months ago, we are forming a legislative caucus on methamphetamine. Interested legislators are invited to participate in our first meeting on Monday, **June 6** from 1:00 – 2:30 p.m. at the Upham Walker House. Speakers will include: NH Attorney General Kelly Ayotte, Leo Ducey and Lisa Remick from the US Drug Enforcement Administration, Joe Harding, Director of the NH Office of Alcohol and Drug Policy and Richard Uncles from the NH Department of Agriculture, Markets and Food. Please join us.

Reps. Joy
K. Tilton,
Deborah J.
Hogancamp
and
William
Butynski

The House Republican Alliance will meet at 8:30 a.m. on Tuesday, **June 7th** at the Upham Walker House, Park Street, Concord.

Rep.
Paul
Mirski

The Main Street Republican Caucus will meet on Wednesday, **June 8th** at 8:15 a.m. at the Upham Walker House.

Rep.
Kenneth
H.
Gould

There will be a picture taken of the Freshman class of legislators on Wednesday, **June 8th** during the lunch break. The location will be announced on the floor. Representative Cliff Newton has graciously offered his services and will make the photo available to all Freshman Representatives in digital format. Mark your calendar for **June 8th**.

Rep.
Pamela
G.
Price

The Greater Manchester Federated Republican Women are having a breakfast at the Yard, Manchester on **June 9th** at 7:30 a.m. Guest will be Sean Mahoney. Tickets \$25.

Rep.
J.
Gail
Barry

The Board of Governors and Honorary Board of Governors cordially invite you to the Vesta Roy Excellence in Public Service Series Graduation Luncheon for the 2004-2005 Class at CR Sparks, 18 Kilton Road, Bedford, on Tuesday, **June 14th** at noon. Featured speaker will be Republican National Committee Co-Chairman Jo Ann Davidson. For tickets or more information, please contact Rep. Deb Hogancamp at 363-9999.

Rep.
Deborah J.
Hogancamp

All Representatives are invited to attend "New Hampshire Supports Our Troops Rally" at the State House Plaza on Friday, **June 24th** at noon. Everyone is encouraged to attend and support our troops, who have recently returned from deployment as well as those troops who continue their deployment.

Rep.
Pamela
D.
Coughlin

Belknap County Republican Chicken Barbeque will be held on Saturday, **June 25** from noon to 3:00 p.m. at Smith Meeting House, Gilmanton. For tickets see Rep. Ralph Rosen.

Rep.
Ralph
J.
Rosen

The Department of Transportation will hold the following meeting:

June Society for
17 the
Protection of
NH Forests

–
 Conservation
 Center – 54
 Portsmouth
 Street, West
 Concord,
 1:00 p.m.
 Advisory
 Committee
 Meeting,
 Long Range
 Plan.
June Pollard
22 Elementary
 School
 Cafeteria,
 120 Main
 Street,
 Plaistow,
 7:00 p.m.
 Commission
 hearing,
 Plaistow,
 NH Route
 125.

Rep. Gene
 G.
 Chandler,
 Chairman
 Public
 Works and
 Highways
 Committee

STATE HOUSE VISITATION SCHEDULE 2005 SCHOOL YEAR FOR JUNE 2005

Virginia Drew, Public Information Administrator		Kenneth Leidner, Director	
DATE	TIME	GROUP	Grade/Size
M June 6	8:30 SH	Florence Rideout Elem School - Wilton	4/35
M June 6	10:00 & 11:00 SH & Lawn	Pelham Elem School	4/50
Tu June 7	10:00 & 11:00 SH & Lawn	Pelham Elem School	4/50
Tu June 7	12:30	Ed Fenn School - Gorham	4/35
Tu June 7	2:00	Concord Chamber of Commerce	30
W June 8	10:00 & 11:00 SH & Lawn	Pelham Elem School	4/50
W June 8	12:30	Nashua Christian Academy	4/16
Thr June 9	10:00 & 11:00 SH & Lawn	Pelham Elem School	4/50
F June 10	10:00	Jonathan Daniels School – Keene	4/35
F June 10	11:30	Kensington Elem School	4/34

WEDNESDAY, JUNE 8

AMENDMENTS

(LISTED IN NUMERICAL ORDER)

2005-1547h

Amendment to SB 121

Proposed by the Committee on Resources, Recreation and Development - R

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

AN ACT relative to all terrain vehicle trails.

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

1 ATV and Trail Bike Operation on State Lands; Evaluation Process. Amend RSA 215-A:43, II(l) is repealed and reenacted to read as follows:

(l) The proposed trail does not pass within 400 feet of a water supply well for a community water system subject to RSA 485. If the proposed trail is to pass through a wellhead protection area as determined under RSA 485:48, II, the bureau shall explain in writing why no alternative locations on the state-owned property outside of the wellhead protection area are suitable for the placement of ATV or trail bike trails. The bureau shall, at least 45 days before the public meeting required by RSA 215-A:43, III is conducted, forward its written explanation, engineering design plans and associated facilities including parking areas and other trail network support features, to the governing body of a municipality serviced by the well. Such governing body may, within 30 days of receipt of the explanation, request a determination from the department of environmental services of the potential effect of the proposed trail on the quality of water derived from the community water supply well. The department of environmental services shall respond no later than 30 days after the public meeting under RSA 215-A:43, III. The proposed trail may only be constructed in a wellhead protection area on state-owned land if the department of environmental services determines that it is unlikely that the trail and associated facilities including parking areas and other trail network support features will affect the ability of the well to consistently produce drinking water which meets the standards set forth in RSA 485. The determination made by the department of environmental services may be appealed pursuant to RSA 21-O:7, IV within 30 days of issuance.

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

AMENDED ANALYSIS

This bill provides that a proposed ATV or trail bike trail shall not pass within 400 feet of a water well supplying a public water system. The bill also establishes a procedure for a proposed trail that will pass through a wellhead protection area.

2005-1722h

Floor Amendment to SB 121

Proposed by Rep. Phinizy - R

Amend the bill by replacing section 2 with the following:

2 Effective Date. This act shall take effect January 1, 2007.

2005-1578h

Amendment to SB 125-FN

Proposed by the Minority of the Committee on Commerce - R

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

AN ACT repealing geographic location as a small group rating factor and limiting overall premium rate variability in the small group health insurance market.

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

1 Small Group Health Insurance; Definitions Added. RSA 420-G:2, I is repealed and reenacted to read as follows:

I. "Actuarial certification" means a written statement by a member of the American Academy of Actuaries or other individual acceptable to the commissioner that a small employer health carrier is in compliance with the provisions of and the rules adopted by the commissioner, based upon the person's examination, including a review of the appropriate records and of the actuarial assumptions and methods used by the small employer health carrier in establishing premium rates for applicable health benefit plans.

I-a. "Case characteristics" means demographic or other relevant characteristics of a small employer group that may be considered by the health carrier in the determination of premium rates for that group.

2 New Paragraph; Definition Added. Amend RSA 420-G:2 by inserting after paragraph II the following new paragraph:

II-a. “Composite billing” means a method of calculating premium rates for small employer groups in which each enrolled employee’s rate varies only by the enrolled employee’s family composition.

3 Definition Changed. Amend RSA 420-G:2, IX-a to read as follows:

IX-a. “Health coverage plan rate” means a rate that is uniquely determined for each of the coverages or health benefit plans a health carrier writes and that is derived from the ~~[base]~~ **market** rate through the application of **plan** factors that reflect actuarially demonstrated differences in expected utilization ~~[or cost]~~ **and health care costs** attributable to differences in the coverage design and/or the provider contracts that support the coverage **and by including provisions for administrative costs and loads. The health coverage plan rate is periodically adjusted to reflect expected changes in the market rate, utilization, health care costs, administrative costs, and loads.**

4 Definition Added. Amend RSA 420-G:2, XII-a to read as follows:

XII-a. **“List billing” means a method of calculating premium rates for small employer groups in which each enrolled employee’s rate varies only by the enrolled employee’s attained age and the enrolled employee’s family composition.**

XII-b. “Loss information” means the aggregate claims experience and shall include, but not be limited to, the number of covered lives, the amount of premium received, the amount of total claims paid, and the claims loss ratio. “Loss information” shall not include any information or data pertaining to the medical diagnosis, treatment, or health status that identifies an individual covered under the group contract or policy. Catastrophic claim information shall be provided as long as the provision of this information would not compromise any covered individual’s privacy.

5 New Paragraph; Definition Added. Amend RSA 420-G:2 by inserting after paragraph XII-b the following new paragraph:

XII-c. “Market rate” means a single rate reflecting the carrier’s average cost of actual or anticipated claims for all health coverages or health benefit plans the carrier writes and maintains in a market, including the nongroup individual health insurance market and, separately, the small employer group health insurance market, and which is periodically adjusted by the carrier to reflect changes in actual or anticipated claims.

6 New Paragraph; Definition Added. Amend RSA 420-G:2 by inserting after paragraph XIV-a the following new paragraph:

XIV-b. “Premium rate” means the rates used by a carrier to calculate the premium. For group coverage, premium rates shall be expressed as a rate per enrolled employee.

7 New Paragraph; Definition Added. Amend RSA 420-G:2 by inserting after paragraph XV the following new paragraph:

XV-a. “Rating period” means the time period for which the premium rate charged by a health carrier to an individual or a small employer for a health benefit plan is in effect.

8 Premium Rates. Amend RSA 420-G:4, I(a) to read as follows:

(a) All ~~[premiums]~~ **premium rates** charged shall be guaranteed for a rating period of at least 12 months, ~~[unless otherwise allowed by the commissioner]~~ **and shall not be changed for any reason, including but not limited to a change in the group’s case characteristics.**

9 Small Group Insurance; Premium Rates. Amend RSA 420-G:4, I(e) to read as follows:

(e) In establishing the premium charged, health carriers ~~[providing]~~ **offering** coverage to small employers shall calculate ~~[a rate]~~ **premium rates** that ~~[is]~~ **are** derived from the health coverage plan rate ~~[through the application of rating factors that the carrier chooses to utilize for age, group size, industry classification, geographic location, and health status]~~ **by making adjustments to reflect one or more case characteristics.** Such ~~[factors]~~ **adjustments from the health coverage plan rate** may be ~~[utilized]~~ **made** only in accordance with the following limitations:

(1) ~~[Carriers may use the attained age of covered persons as a rating factor. However, the maximum premium differential for age as determined by ratio shall be 4 to 1 beginning with age 19].~~ **In establishing the premium rates, health carriers offering coverage to small employers may use only age, group size, industry classification, health status, claims experience, and duration of coverage as case characteristics. No consideration shall be given to geographic location or any other characteristic of the group.**

(2) Carriers ~~[modifying such average premium]~~ ***making adjustments from the health coverage plan rate*** for age may do so only by using the following age brackets:

0 - 18
19 - 24
25 - 29
30 - 34
35 - 39
40 - 44
45 - 49
50 - 54
55 - 59
60 - 64
65 +

(3) ~~[Carriers may use group size as a rating factor. However, the highest factor based on group size shall not exceed the lowest factor based on group size by more than 20 percent; provided that for groups of one, an additional 10 percent rating factor shall be allowed from the highest factor.]~~

(4) ~~Carriers may use the small employer group's industry classification as a rating factor. However, the highest factor based on industry classification shall not exceed the lowest factor based on industry classification by more than 20 percent.~~

(5) ~~Carriers may use the small employer group's geographic location as a rating factor. However, the highest factor based on geographic location shall not exceed the lowest factor based on geographic location by more than 15 percent.~~

(6) ~~Carriers may use the health status of the small employer group as a rating factor. However, the application of a health status factor shall be subject to the following limitations:~~

(A) ~~The health status factor may reflect health status of covered persons, the small employer's claim experience, or the duration of coverage since health statements were last provided.~~

(B) ~~Variations from the arithmetic average of the highest rate charged to the lowest rate charged shall not exceed 25 percent.~~

(C) ~~Upon the renewal of a small employer policy, any increase in the premium rate that is solely attributable to changes in the health status factor from the prior year shall be no more than 15 percent.~~

(7) ~~Upon the renewal of a small employer policy, a carrier is prohibited from increasing the premium rate by more than 25 percent of the rate that was charged in the preceding year. Such rate increase limitation shall not include any premium rate increase that is based on a carrier's annual cost and utilization trends or changes in the rating factor for attained age of covered persons.]~~ ***The maximum premium rate differential after adjusting for all case characteristics as determined by ratio shall be 4 to 1 for a covered person whose attained age is greater than 18. For groups of one the maximum premium rate differential of 4 to 1 may be increased by an additional 10 percent.***

(4) ***In establishing the premium rates, health carriers offering coverage to small employers may make further adjustments based on health plan membership type.***

(5) ***The small employer health carrier shall set premium rates to small employers after consideration of case characteristics of the small employer group as well as the health plan membership type.***

(6) ***Carriers may calculate premium rates using either list billing or composite billing. Carriers shall use the same billing method in all succeeding rating periods unless the carrier has provided the small employer notice of the change in billing method and a renewal quote using the new rating methodology at least 60 days prior to the end of the rating period.***

(7) ***The percentage increase in the premium rates for a new rating period shall not exceed 15 percent of the premium rates used by that carrier in the preceding rating period. Such rate increase limitation shall not include any premium rate increase that is based on changes in the health coverage plan rate.***

10 Reference Change. Amend RSA 420-G:4, I(b) to read as follows:

(b) ~~[Base rate]~~ **Market rate** shall be established by each health carrier for all of its health coverages offered to individuals and, separately, for all of its health coverages offered to small employers.

11 Legislative Oversight Committee. Amend RSA 420-G:14-c, I to read as follows:

I. There is hereby established a joint legislative oversight committee on small group health insurance reform. The committee shall review the reports filed by the commissioner pursuant to RSA 420-G:14-a, monitor the small group health insurance market in the state, and monitor the ~~[effect of SB 110 of the 2003 legislative session]~~ **effects of small group health insurance reform**. The committee shall make recommendations for any legislative changes the committee deems necessary. The committee shall include 3 members of the house, appointed by the speaker of the house and 2 senators, appointed by the president of the senate.

12 Effective Date. This act shall take effect January 1, 2006.

AMENDED ANALYSIS

This bill makes certain changes in the small employer health insurance law, including:

I. Repealing geographic location as a rating factor for small group health insurance.

II. Adding a definition of case characteristics and certain other definitions.

III. Limiting overall premium rate variability in the small group health insurance market.

2005-1696h

Amendment to SB 170

Proposed by the Committee on Executive Departments and Administration - R

Amend RSA 326-B:1 as inserted by section 1 of the bill by replacing it with the following:

326-B:1 Purpose. In order to safeguard the life, health, and public welfare of the people of New Hampshire and in order to protect the people of the state from the unauthorized, unqualified, and improper application of services by individuals in the practice of nursing, it is necessary that a regulatory authority be established and adequately funded. To further this policy, the practice of nursing shall be regulated through the New Hampshire board of nursing, and such board shall have the power to enforce the provisions of this chapter. Licensees under this chapter are accountable to clients, the nursing profession, and the board for complying with the requirements of this act and the quality of nursing care rendered, and for recognizing limits of knowledge and experience and planning for management of situations beyond the licensee's experience.

Amend RSA 326-B:2, I as inserted by section 1 of the bill by replacing it with the following:

I. "Advanced registered nurse practitioner" or "ARNP" means a registered nurse currently licensed by the board under RSA 326-B:18.

Amend RSA 326-B:2, III as inserted by section 1 of the bill by replacing it with the following:

III. "Continuing competence" means integrated learning by which a licensee gains, maintains, or refines practice knowledge, skills, and abilities. This development may occur through a formal education program, continuing education, and clinical practice, and is expected to continue throughout the practitioners' career.

Amend RSA 326-B:2, V as inserted by section 1 of the bill by replacing it with the following:

V. "Licensed practical nurse" or "LPN" means an individual who holds a current license to practice practical nursing as defined in paragraph IX.

Amend RSA 326-B:2, VII as inserted by section 1 of the bill by replacing it with the following:

VII. "Nursing" means assisting clients or groups of clients to attain or maintain optimal health by implementing a strategy of care to accomplish defined goals and by evaluating responses to nursing care and medical treatment. Nursing includes basic health care that helps both clients and groups of clients cope with difficulties in daily living associated with their actual or potential health or illness status and also those nursing activities that require a substantial amount of scientific knowledge or technical skill.

Amend RSA 326-B:4, I as inserted by section 1 of the bill by replacing it with the following:

I. Establish reasonable and uniform standards for nursing practice consistent with the criteria identified by the National Council of State Boards of Nursing.

Amend RSA 326-B:4, XIII and XIV as inserted by section 1 of the bill by replacing them with the following:

XIII. Establish and collect fees, under rules adopted by the board under RSA 541-A, relative to applicants seeking any type of license issued by the board under this chapter, including fees for applications for temporary licenses, reinstatement of inactive licenses, license by examinations, and renewal of licenses, as well as fees for verifying license status, program graduation, or computerized lists.

XIV. Require a registered nurse or a licensed practical nurse licensed in the state of New Hampshire to obtain a multistate license if the registered nurse or licensed practical nurse practices in a remote state.

Amend RSA 326-B as inserted by section 1 of the bill by deleting RSA 326-B:9 and renumbering the original RSA 326-B:10 - 47 to read as RSA 326-B:9 - 46, respectively.

Amend RSA 326-B:9, III as inserted by section 1 of the bill by replacing it with the following:

III. Recognition of national certifying bodies issuing specialty certifications required for licensure as an ARNP which shall also be recognized by the National Council of State Boards of Nursing.

Amend RSA 326-B:9, IX as inserted by section 1 of the bill by replacing it with the following:

IX. Continuing competence requirements.

Amend RSA 326-B:9, XI as inserted by section 1 of the bill by replacing it with the following:

XI. The implementation and coordination of the nurse licensure compact adopted in RSA 326-B:46. The board shall use model rules developed for the nurse licensure compact by the National Council of State Boards of Nursing as the basis for adopting rules which shall be modified as necessary to comply with state statutes.

Amend RSA 326-B:11 as inserted by section 1 of the bill by replacing it with the following:

326-B:11 Scope of Practice and Authority; Advanced Registered Nurse Practitioner.

I. Advanced registered nursing practice by nurse practitioners shall consist of a combination of knowledge and skills acquired in basic nursing education. The ARNP scope of practice, with or without compensation or personal profit, shall be limited to:

(a) Performing acts of advanced assessment, diagnosing, prescribing, selecting, administering, and providing therapeutic measures and treatment regimes;

(b) Obtaining consultation, planning, and implementing collaborative management, referral, or transferring the care of the client as appropriate; and

(c) Providing such functions common to a nurse practitioner for which the ARNP is educationally and experientially prepared and which are consistent with standards established by a national credentialing or certification body recognized by the National Council of State Boards of Nursing and approved by the board in the appropriate ARNP role and specialty.

II. An ARNP shall practice within standards consistent with standards established by a national credentialing or certification body recognized by the National Council of State Boards of Nursing and approved by the board in the appropriate ARNP role and specialty. The board shall not approve a new advanced practice specialty category that has not been developed by a national credentialing or certifying body recognized by the National Council of State Board of Nursing and without approval of the legislature under RSA 332-G:6. Each ARNP shall be accountable to clients and the board:

(a) For complying with this chapter and the quality of advanced nursing care rendered;

(b) For recognizing limits of knowledge and experience and planning for the management of situations beyond the ARNP's expertise; and

(c) For consulting with or referring clients to other health care providers as appropriate.

III. An ARNP shall have plenary authority to possess, compound, prescribe, administer, and dispense and distribute to clients controlled and non-controlled drugs in accordance with the formulary established by the joint health council and within the scope of the ARNP's practice as defined by this chapter. Such authority may be denied, suspended, or revoked by the board after notice and the opportunity for hearing, upon proof that the authority has been abused.

IV. Any expansion of the scope of practice shall be adopted by legislation in accordance with RSA 332-G:6.

Amend the introductory paragraph of RSA 326-B:12, I as inserted by section 1 of the bill by replacing it with the following:

I. An RN shall, with or without compensation or personal profit, practice nursing that incorporates caring for all clients in all settings, is guided by nursing standards consistent with standards established by the National Council of State Boards of Nursing and approved by the board, and shall be limited to:

Amend RSA 326-B:12 as inserted by section 1 of the bill by inserting after paragraph II the following new paragraph:

III. Any expansion of the scope of practice shall be adopted by legislation in accordance with RSA 332-G:6.

Amend the introductory paragraph and subparagraph (a) of RSA 326-B:13, I as inserted by section 1 of the bill by replacing it with the following:

I. An LPN shall, with or without compensation or personal profit, practice under the supervision of an RN, ARNP, licensed physician, or dentist. Such practice is guided by nursing standards established by the National Council of State Boards of Nursing and approved by the board, and shall be limited to:

(a) Collecting data and conducting focused nursing assessments of the health status of clients.

Amend RSA 326-B:13 as inserted by section 1 of the bill by inserting after paragraph III the following new paragraph:

IV. Any expansion of the scope of practice shall be adopted by legislation in accordance with RSA 332-G:6.

Amend RSA 326-B:14, III(a) as inserted by section 1 of the bill by replacing it with the following:

(a) Form a relationship, communicate, and interact effectively with individuals and groups.

Amend RSA 326-B:14, IV(a) as inserted by section 1 of the bill by replacing it with the following:

(a) The task has been properly delegated to the nursing assistant by the supervising licensed nurse pursuant to RSA 326-B:28.

Amend RSA 326-B:14 as inserted by section 1 of the bill by inserting after paragraph IV the following new paragraph:

V. Any expansion of the scope of practice shall be adopted by legislation in accordance with RSA 332-G:6.

Amend RSA 326-B:16, V as inserted by section 1 of the bill by replacing it with the following:

V. Meet continuing competence requirements as defined in rules adopted under RSA 541-A.

Amend RSA 326-B:18, I(b) as inserted by section 1 of the bill by replacing it with the following:

(b) Have graduated with a graduate degree earned in an accredited advanced registered nurse practitioner education program or have graduated before July 1, 2004 from an ARNP education program accredited by a national accrediting body;

Amend RSA 326-B:22 as inserted by section 1 of the bill by replacing it with the following:

326-B:22 License Renewal; All Licensees:

I. All license renewals shall be issued biennially.

II. Any person licensed who intends to continue practicing as a nurse or nursing assistant shall:

(a) By midnight on his or her date of birth in the renewal year submit a completed application and fees as established by the board;

(b) Report any pending criminal charges, criminal convictions, or plea arrangements in lieu of convictions;

(c) Have committed no acts or omissions which are grounds for disciplinary action as set forth in this chapter, or, if such acts have been committed and would be grounds for disciplinary action, the board has found, after investigation, that sufficient restitution has been made;

(d) Meet continuing competence requirements as defined in rules adopted under RSA 541-A;

(e) For those licensees applying for renewal following disciplinary action, comply with all board licensure requirements as well as any specific requirements set forth in the board's discipline order; and

(f) Meet other criteria as established by the board.

III. Failure to renew the license shall result in forfeiture of the ability to practice nursing or nursing activities in the state of New Hampshire.

Amend RSA 326-B:23, I as inserted by section 1 of the bill by replacing it with the following:

I. An individual who applies for license reinstatement who does not meet the continuing competence requirements shall demonstrate current nursing or nursing assistant knowledge and skill, as defined in rules adopted by the board under RSA 541-A.

Amend RSA 326-B:23 as inserted by section 1 of the bill by inserting after paragraph II the following new paragraph:

III. Application for reinstatement of a license which has lapsed under this section shall include payment of a reinstatement fee and be made, and granted or denied, in accordance with rules adopted by the board pursuant to RSA 541-A.

Amend RSA 326-B:24 as inserted by section 1 of the bill by replacing it with the following:

326-B:24 Temporary Licenses; All Licensees.

I. The board may issue temporary licenses, as provided in paragraph II, to applicants who meet entry level licensing requirements in the license category. A temporary license shall expire on the date the board approves or denies the permanent license sought by the holder of the temporary license, or in 120 days, whichever is less.

II. The following applicants for licensure as RNs or LPNs may be issued temporary licenses:

(a) Unlicensed applicants for licensure under paragraph I and applicants for licensure under RSA 326-B who have met all requirements for licensure except that they have not yet taken the required examination or the results of the examination are not yet available to the board.

(b) If they can demonstrate proficiency in English, currently foreign-licensed applicants for licensure under RSA 326-B who have met all requirements for licensure except that they have not yet taken the required examination or the results of the examination are not yet available to the board.

(c) Applicants for licensure under RSA 326-B who have met all of the requirements of that paragraph and are awaiting the board's decision on their application for permanent licensure.

III. Applicants described in paragraph II who have received temporary licenses shall practice only under the supervision of an RN currently licensed in New Hampshire.

Amend the section heading of RSA 326-B:29 as inserted by section 1 of the bill by replacing it with the following:

326-B:29 Delegation; Circumstances Not Subject to Disciplinary Action by the Board of Nursing. Amend RSA 326-B:29, II as inserted by section 1 of the bill by replacing it with the following:

II. No person may coerce an RN or an LPN into compromising client safety by requiring the nurse to delegate a nursing activity or task when the nurse determines that it is inappropriate to do so. A licensee shall not be subject to disciplinary action for refusing to delegate or refusing to provide training related to such delegation when the licensee has determined that such delegation may compromise client safety except as provided in RSA 326-B:37, II(h)(2).

Amend RSA 326-B:32, I as inserted by section 1 of the bill by replacing it with the following:

I. The board shall establish standards for the establishment and outcomes for nursing and nursing assistant education programs intended to prepare students for licensure or for certification, including clinical learning experiences. The board shall approve, disapprove, or withdraw approval for such programs that meet or fail to meet the requirements of this chapter. An educational institution or other entity conducting such an education program shall comply with paragraphs II and III and rules adopted by the board pursuant to RSA 541-A.

Amend RSA 326-B:33 as inserted by section 1 of the bill by replacing it with the following:

326-B:33 Duty to Warn of Violent Acts of Client; Civil Liability.

I. Any licensee, or person working under the supervision of a licensee to provide services that are customary and necessary for diagnosis or treatment, has a duty to warn of, or to take reasonable precautions to provide protection from, a client's violent behavior when the client has communicated to the ARNP or the person working under an ARNP licensee, or person working under the supervision of a licensee, a serious threat of physical violence against a clearly identified or reasonably identifiable victim or victims, or a serious threat of substantial damage to real property.

II. The duty may be discharged by the licensee, or a person working under the supervision of a licensee to provide services that are customary and necessary for diagnosis or treatment by making reasonable efforts to communicate the threat to the victim or victims, notifying the police department closest to the client's or potential victim's residence, or obtaining civil commitment of the client to the state mental health system.

III. No monetary liability or cause of action based on breach of client privacy, confidentiality, or any other ground shall arise from an act or communication done in a good faith effort to discharge a duty in accordance with paragraph II.

Amend RSA 326-B:35 as inserted by section 1 of the bill by inserting after paragraph III the following new paragraph:

IV. This section shall also not apply to the release of blood samples and the results of laboratory tests for blood alcohol content taken from a person who is under investigation for driving a motor vehicle while such person was under the influence of intoxicating liquors or controlled drugs. The use and disclosure of such information shall be limited to the official criminal proceedings.

Amend the section heading of RSA 326-B:44 as inserted by section 1 of the bill by replacing it with the following:

326-B:44 Certified Midwifery Not the Practice of Nursing

Amend the bill by replacing section 6 with the following:

6 Pharmacies; Definitions. Amend RSA 318:1, I-a to read as follows:

I-a. "Advanced registered nurse practitioner" means a person licensed to practice as an advanced registered nurse practitioner in this state pursuant to RSA ~~[326-B:10]~~ **326-B:18**.

Amend the bill by replacing sections 8 - 13 with the following:

8 Controlled Drug Act; Definitions. Amend RSA 318-B:1, I-b to read as follows:

I-b. "Advanced registered nurse practitioner" means a person licensed to practice as an advanced registered nurse practitioner in this state pursuant to RSA ~~[326-B:10]~~ **326-B:18**.

9 Respiratory Care Practice Act; Definitions. Amend RSA 326-E:1, V to read as follows:

V. "Nurse practitioner" means a person licensed to practice as an advanced registered nurse practitioner in this state pursuant to RSA ~~[326-B]~~ **326-B:18**.

10 Mental Health Practice; Definitions. Amend RSA 330-A:2, VIII to read as follows:

VIII. "Psychotherapist" means a psychologist, clinical social worker, pastoral psychotherapist, clinical mental health counselor, or marriage and family therapist licensed under this chapter who performs or purports to perform psychotherapy. This definition shall include psychiatrists licensed as physicians under RSA 329 and advanced registered nurse practitioners licensed under RSA ~~[326-B:10]~~ **326-B:18** as psychiatric nurse practitioners.

11 Mental Health Practice; Penalties. Amend RSA 330-A:23, I to read as follows:

I. Except as provided in RSA 330-A:34, it shall be unlawful for any person to be engaged in mental health practice unless that person is licensed by the board, working as a candidate under the direct supervision of a person licensed by the board, or engaged in the practice of other mental health services as an alternative provider as defined in RSA 330-A:2, I. The license or the registration of such person shall be current and valid. It shall be unlawful for any person to practice as or to refer to oneself as a psychologist, a pastoral psychotherapist, a clinical social worker, a clinical mental health counselor, or a marriage and family therapist, or use the word "psychotherapist," or any variation thereof, in such person's title unless that person is licensed by the board or working as a candidate under the direct supervision of a person licensed by the board. Psychiatrists licensed under RSA 329 and psychiatric nurse practitioners licensed under RSA ~~[326-B:10]~~ **326-B:18** may refer to themselves as psychotherapists.

12 Mental Health Practice; Persons Exempted. Amend RSA 330-A:34, I(e) to read as follows:

(e) The psychotherapy activities and services of physicians licensed under RSA 329, and advanced registered nurse practitioners, licensed under RSA ~~[326-B:10]~~ **326-B:18**.

13 Insurance; Coverage for Mental or Nervous Conditions. Amend RSA 415:18-a, V(d) to read as follows:

(d) "Psychiatric/mental health advanced registered nurse practitioner" means an individual who is licensed as an advanced registered nurse practitioner in psychiatric mental health nursing under RSA ~~[326-B:10]~~ **326-B:18**, who is defined by and whose scope of practice is described under the rules adopted pursuant to RSA 326-B, and who is a licensed registered nurse, educationally prepared in nursing at a minimum of the master's level, and certified in the specialty by a recognized national certifying agency, such as the American Nurses Credentialing Center.

2005-1729h

Floor Amendment to SB 170

Proposed by Rep. Pilotte - R

Amend RSA 326-B:4, XIII and XIV as inserted by section 1 of the bill by replacing them with the following:

XIII. Establish and collect fees, under rules adopted by the board pursuant to RSA 541-A, relative to applicants seeking any type of license issued by the board under this chapter, including fees for applications for temporary licenses, reinstatement of inactive licenses, license by examinations, renewal of licenses, and multistate licenses, as well as fees for verifying license status, program graduation, or computerized lists.

XIV. Require a registered nurse or a licensed practical nurse licensed in the state of New Hampshire to obtain a multistate license if the registered nurse or licensed practical nurse practices in a remote state. The board may charge an additional fee for such a multistate license.

Amend RSA 326-B:11, I(c) as inserted by section 1 of the bill by replacing it with the following:

(c) The following specialty areas:

(1) Nurse midwife.

- (2) Pediatric nurse practitioner.
- (3) Family nurse practitioner.
- (4) Women's health nurse practitioner.
- (5) Adult nurse practitioner.
- (6) Geriatric nurse practitioner.
- (7) School nurse practitioner.
- (8) Psychiatric/mental health nurse practitioner.
- (9) Emergency/trauma nurse practitioner.
- (10) Neo-natal nurse practitioner.
- (11) Certified registered nurse anesthetist.
- (12) Acute care nurse practitioner.
- (13) Community health nurse practitioner.
- (14) Reproductive health nurse practitioner.
- (15) Oncology nurse practitioner.
- (16) Palliative care nurse practitioner.
- (17) Wound care nurse practitioner.

Amend RSA 326-B:29, II as inserted by section 1 of the bill by replacing it with the following:

II. No person may coerce an RN or an LPN into compromising client safety by requiring the nurse to delegate a nursing activity or task when the nurse determines that it is inappropriate to do so. A licensee shall not be subject to disciplinary action for refusing to delegate or refusing to provide training related to such delegation when the licensee has determined that such delegation may compromise client safety.

III. No person may coerce a licensee to accept delegation of a nursing activity or task when such delegation may compromise client safety. A licensee shall not be subject to disciplinary action for refusing to accept delegation when the licensee believes that such delegation may compromise client safety.

2005-1656h

Amendment to SB 214

Proposed by the Majority of the Committee on Judiciary - R

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

1 New Chapter; Screening Panels for Medical Injury Claims. Amend RSA by inserting after chapter 519-A the following new chapter:

CHAPTER 519-B

SCREENING PANELS FOR MEDICAL INJURY CLAIMS

519-B:1 Findings, Purpose, and Intent.

I. This chapter affirms the intent of the general court to contain the costs of the medical injury reparations system. Claims for medical injury should be resolved as early and inexpensively as possible to contain system costs. Claims that are resolved before court determination cost less to resolve than claims that must be resolved by a court. Meritorious claims should be identified as quickly as possible, as should non-meritorious claims. Defendants should consider paying or compromising meritorious claims and plaintiffs should consider withdrawing or compromising non-meritorious claims, as soon as the merits of the claims are known to the parties. Prescreening of claims is intended to help identify both meritorious and non-meritorious claims without the delay and expense of a court trial.

II. The purposes of pretrial screening panels are:

- (a) To identify claims of medical injury which merit compensation and to encourage early resolution of those claims prior to commencement of a lawsuit; and
- (b) To identify claims of medical injury and to encourage early withdrawal or dismissal of nonmeritorious claims.

519-B:2 Definitions. In this chapter:

I. "Action for medical injury" means an action for medical injury as defined in RSA 507-E:1,

II. "Medical injury" means a medical injury as defined in RSA 507-E:1, III.

III. "Medical care provider" means a medical care provider as defined in RSA 507-E:1, II.

519-B:3 Formation and Procedure.

I. The chief justice of the superior court shall maintain a list of retired judges, persons with judicial experience, and other qualified persons to serve on screening panels under this chapter, from which he or she shall choose a panel chairperson under paragraph II of this section. The chief

justice of the superior court shall compile and maintain lists of medical care providers and attorneys with litigation experience to serve on screening panels under this chapter.

II. Screening panel members shall be selected as follows:

(a) Upon the entry of a medical injury case, the clerk of the superior court in which the medical injury case is filed shall notify the chief justice of the superior court.

(b) Within 14 days following the return date, the chief justice shall choose a retired judge, a person with judicial experience, or other qualified person from the list maintained by the chief justice to serve as chairperson of the panel to screen the claim. If at any time a chairperson chosen under this paragraph is unable or unwilling to serve, the chief justice shall appoint a replacement following the procedure in this paragraph for the initial appointment of a chairperson. Persons other than retired judges or those with judicial experience may be appointed as chairperson based on appropriate trial experience. If the chief justice appoints as chairperson a person who is not a retired judge or who does not have judicial experience, each side may make one challenge to the appointment.

(c) The chief justice shall notify the clerk of the name of the person designated to serve as chairperson and shall provide the clerk with the lists of medical care providers and attorneys maintained under this section. Upon notification of the chief justice's choice of chairperson, the clerk shall notify the chairperson and the parties, and provide them with the lists of medical care providers of health care and attorneys. The chairperson shall choose 2 or 3 additional panel members from the lists as follows:

(1) One attorney.

(2) One medical care provider. If possible, the chairperson shall choose a provider who practices in the same specialty or profession as the person or entity accused of causing a medical injury.

(3) Where the claim involves more than one person accused of causing a medical injury, the chairperson may choose a fourth panel member who is a medical care provider. If possible, the chairperson shall choose a provider in the specialty or profession of a person accused.

(4) When agreed upon by all the parties, the list of available panel members may be enlarged in order to select a panel member who is agreed to by the parties but who is not on the chief justice's list.

III. The superior court may establish a trial date at a structuring conference, or other scheduling conference, and all interim deadlines as it would in any other case.

IV. The chief justice of the superior court may establish the compensation of the panel chairperson. Other panel members shall serve without compensation or payment of expenses.

V. The clerk of the superior court in the county in which a medical injury case is filed shall, with the consent of the chief justice of the superior court, provide clerical and other assistance to the panel chairperson.

VI.(a) Only challenges for cause shall be allowed.

(b) If a panel member other than the chairperson is challenged for cause, the party challenging the member shall notify the panel chairperson. If the panel chairperson finds cause for the challenge, he or she shall replace the panel member within 7 days of the finding.

(c) If the chairperson is challenged for cause, the party challenging the chairperson shall notify the chief justice of the superior court. If the chief justice finds cause for the challenge, he or she shall replace the chairperson within 7 days of the finding.

VII. The panel, through the chairperson, shall have the same subpoena power as exists for a superior court judge. The chairperson shall have sole authority, without requiring the agreement of other panel members, to issue subpoenas.

VIII. The New Hampshire superior court rules shall govern discovery conducted under this chapter. The parties shall attempt in good faith to resolve discovery issues themselves. The chairperson shall rule on disputes regarding discovery. Any person aggrieved by a chairperson's ruling regarding discovery may appeal to the superior court within 7 days of the ruling, which shall defer to the chairperson's factual findings unless they are clearly erroneous.

519-B:4 Panel Procedures.

I. All documents filed with the court in a medical injury action that are part of the screening process are confidential.

II. Within 20 days of the return date, the defendant or defendants shall contact the claimant's counsel and by agreement shall designate a timetable for filing all the relevant medical and provider records necessary to a determination by the panel. If the parties are unable to agree on

a timetable within 60 days of the return date, the claimant shall notify the chairperson of the panel. The chairperson shall then establish a timetable for the filing of all relevant records and reasonable discovery, which shall be filed at least 30 days before any hearing date. The hearing shall be no later than 6 months from the return date, except when the time period has been extended by the panel chairperson in accordance with this chapter.

III. The pretrial screening may be bypassed if all parties agree upon a resolution of the claim by trial or settlement.

IV. All parties to a claim may, by written agreement, submit a claim to the binding determination of the panel. All parties may agree to bypass the panel for any reason, or may request that certain preliminary legal affirmative defenses or issues be litigated prior to submission of the case to the panel. The panel shall have no jurisdiction to hear or decide, absent agreement of the parties, dispositive legal affirmative defenses, other than comparative negligence. The panel chairperson may require the parties to litigate, by motion, such dispositive legal affirmative defenses in the superior court prior to submission of the case to the panel. Any such defense, as well as any motion relating to discovery that the panel chairperson has chosen not to rule on, may be presented, by motion, in superior court.

V. Except as otherwise provided in this section, there shall be one combined hearing for all claims under this section arising out of the same set of facts. Where a medical injury case has been filed against more than one person accused of medical injury based on the same facts, the parties may, upon agreement of all parties, require that hearings be separated. The chairperson may, for good cause, order separate hearings.

VI.(a)(1) On failure of the plaintiff to prosecute or to comply with rules or any order of the chairperson, or if the plaintiff fails to attend a properly scheduled hearing, and on motion by the chairperson or any party, after notice to all parties has been given and the party against whom sanctions are proposed has had the opportunity to be heard and show good cause, the chairperson may order appropriate sanctions, which may include dismissal of the case. If any sanctions are imposed, the chairperson shall state the sanctions in writing and include the grounds for the sanctions.

(2) Unless the chairperson or the panel in an order for dismissal specifies otherwise, a dismissal under this subparagraph is with prejudice for purposes of proceedings before the panel. A dismissal with prejudice is the equivalent of a finding for the defendant on all issues before the panel.

(b)(1) On failure of a defendant to comply with the rules or any order of the chairperson, or if a defendant fails to attend a properly scheduled hearing, and on motion by the chairperson or any party, after notice to all parties has been given and the party against whom sanctions are proposed has had the opportunity to be heard and show good cause, the chairperson may order appropriate sanctions, which may include default. If any sanctions are imposed, the chairperson shall state the sanctions in writing and include the grounds for the sanctions.

(2) Unless the chairperson or the panel in its order for default specifies otherwise, a default under this paragraph is the equivalent of a finding against the defendant on all issues before the panel.

(c) Any person aggrieved by a chairperson's ruling regarding sanctions may appeal to the superior court, which shall defer to the chairperson's factual findings unless they are clearly erroneous.

519-B:5 Screening Panel Hearing.

I.(a) Every action at law for medical injury against a medical care provider shall be screened by the panel. The parties shall present offers of proof and the panel shall determine if the evidence presented, if properly substantiated, is sufficient to raise a legitimate question of liability appropriate for judicial inquiry.

(b) After presentation by the parties, the panel may request additional facts, records, or other information from either party to be submitted in writing.

II. The panel shall maintain a record. Except as provided in RSA 519-B:6, the record may not be made public and the hearings may not be public without the consent of all parties.

III. The chairperson of the panel shall attempt to resolve any differences of the parties before proceeding to findings.

519-B:6 Findings by Screening Panel.

I. At the conclusion of the hearing, the panel shall determine if the evidence presented, if properly substantiated, is sufficient to raise a legitimate question of liability appropriate for judicial inquiry.

II. The panel's findings, signed by the panel members, indicating their vote, shall be sent by registered or certified mail to the parties within 7 days of the date of the findings. The findings, records, and exhibits of the screening hearing shall be preserved and forwarded to the mediator. The findings and record of the hearing shall be preserved until 90 days after final judgment or final resolution of the case, after which time they shall be destroyed.

III. Except as provided in this section, all proceedings before the panel, including its final determinations, shall be treated as private and confidential by the panel and the parties to the claim. The findings and other writings of the panel and any evidence and statements made by a party or a party's representative during a panel hearing are not admissible in court and shall not be submitted or used for any purpose in a subsequent trial and shall not be publicly disclosed, except as follows:

(a) Evidence presented to the panel may be used in subsequent proceedings for purposes of impeachment.

(b) The party who presented the evidence may agree to the submission, use, or disclosure of that statement or evidence.

IV. The deliberations and discussion of the panel shall be confidential.

V. The confidentiality provisions of this section shall not apply if the findings were influenced by fraud.

VI. All actions which continue after the decision of the screening panel shall be mediated within 45 days in a manner established by court rules to promote and encourage an expeditious settlement.

519-B:7 Screening Judge.

I. Every action for medical injury against a medical care provider in which a screening panel directed to be assembled under RSA 519-B:3 which has not held a hearing within 6 months of the return date shall be screened by a single justice of the superior court.

II. The parties shall present offers of proof and the screening judge shall determine if the evidence presented, if properly substantiated, is sufficient to raise a legitimate question of liability appropriate for judicial inquiry.

519-B:8 Procedure.

I. Each screening hearing pursuant to RSA 519-B:7 shall be heard by a single screening judge within 45 days after the lapse of the 6-month period allowable for a screening panel hearing authorized under RSA 519-B:3.

II. At the screening hearing, admissible evidence shall include, but not be limited to, hospital and medical records, nurses' notes, x-rays, and other records kept in the usual course of the practice of the medical care provider without the necessity for other identification or authentication, statements of fact or opinion on a subject contained in a published treatise, periodical, book, or pamphlet, or statements and reports by experts without the necessity of such experts appearing at the hearing. The screening judge may, upon his or her own decision, summon or subpoena any such records to substantiate or clarify any issue which has been presented. If the screening judge or mediator, in his or her discretion, desires expert medical advice, he or she may secure the assistance of a medical adviser who practices in the same specialty as the person or entity named in the suit.

III. All actions which continue after the decision of the screening judge shall be mediated within 45 days in a manner established by court rules to promote and encourage an expeditious settlement.

IV. The findings of the screening judge and all documents submitted during the screening process are admissible in the mediation procedure held pursuant to paragraph III in this section.

V. Findings of the screening judge, and the outcomes of the mediation process under paragraph III shall not be admissible in any subsequent trial, except to the extent agreed on by the parties.

VI. The expenses of the screening hearing and mediation shall be equitably assessed to the parties by the court.

519-B:9 Final Disposition. Upon entry of judgment, settlement, or other final disposition at trial court level, the clerk shall, no later than 15 days after such entry, send a copy of the judgment, settlement, or other final disposition, to the board of medicine. The terms of judgment, settlement, or other final disposition shall not be sealed, pursuant to RSA 507-E:3.

519-B:10 Notification to the Board of Medicine. Whenever the screening judge makes a finding, the clerk of the court shall, no later than 15 days after such finding, send a copy of the complaint and finding to the board of medicine.

519-B:11 Medical Malpractice Panel and Insurance Oversight Committee Established.

I. There is established a committee to study medical malpractice insurance rates in this state and the mandatory panels for medical injury claims process.

II. The committee shall consist of 4 members of the senate appointed by the senate president, and 4 members of the house of representatives, appointed by the speaker of the house of representatives. The house members shall include at least:

- (a) One member of the house judiciary committee.
- (b) One member of the house health, human services and elderly affairs committee.
- (c) One member of the house commerce committee.

III. The members of the 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. Five members of the committee shall constitute a quorum.

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

V. The committee shall review and analyze information provided by the administrative office of the courts and the insurance department related to medical injury liability claim activity in order to determine the effectiveness of mandatory screening panels for medical injury claims established in this chapter. The committee's review shall include, but not be limited to, whether medical malpractice insurance premiums have been affected and whether there has been any limitation of, or delay in, access to the courts by injured parties and the reasons for such limitations or delays.

VI.(a) The committee shall make an interim report of its findings about medical liability insurance rates and the mandatory panel process and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before December 1, 2008.

(b) The committee shall make a final report of its findings about medical liability insurance rates and the mandatory panel process and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before December 1, 2010. The report shall include a recommendation to terminate, continue, or amend RSA 519-B.

519-B:12 Reports.

I.(a) The administrative office of the courts shall collect data on medical injury claims and submit a report on the screening panel process to the committee established in RSA 519-B:11 and to the insurance commissioner on or before September 30 of each year.

(b) The report required by this paragraph shall include the number of medical injury cases filed, pending, and resolved; and the number of panel hearings and the number of panel hearing days during the fiscal year ending on the June 30 preceding the report date.

(c) The report required by this paragraph shall also include, for medical injury cases resolved during the fiscal year:

- (1) The mean and median lengths of time from initial filing to final resolution.
- (2) The number and average settlement amount of cases that were resolved prior to the panel hearing.
- (3) The number and average settlement amount of cases that were resolved after a panel hearing but before a trial.
- (4) The number and average settlement amount of cases that were resolved by or after a jury verdict.

(d) The report required by this paragraph shall also include, for medical injury cases in which a panel made findings during the fiscal year, the number of cases that fell into each category of possible results of a panel hearing (unanimous for the plaintiff; majority for the plaintiff; unanimous for the defendant; majority for the defendant), the status, and, if applicable, the results of the cases in each category.

(e) To the extent possible, the report required by this paragraph shall include comparative data from the previous 5 years.

II.(a) The insurance commissioner shall report to the committee established in RSA 519-B:11 annually, on or before November 1 of each year, on the medical malpractice market and the effects of the panel process established in this chapter. Such reports shall include, but not be limited to, the average rates of medical liability insurance for categories of medical providers and specialties identified by the insurance commissioner, the frequency and severity of medical injury claims, and the time for resolution of medical injury claims from first notice to final resolution.

(b) The insurance commissioner may adopt rules to collect the data from insurers necessary to prepare the report required by this paragraph. To the extent the commissioner collects information from insurers regarding individual claims, loss adjustment and other expenses, reserves, indemnity payments, or other financial information that is not otherwise reported to the commissioner and available to the public, such information shall be treated as examination materials, kept confidential, and not be subject to RSA 91-A.

2 Effective Date. This act shall take effect January 1, 2006.

AMENDED ANALYSIS

This bill:

- I. Creates panels for medical injury claims.
- II. Establishes a committee to study medical malpractice insurance rates and the effectiveness of the mandatory panel process.
- III. Requires certain reports relative to medical malpractice insurance and the mandatory panels.