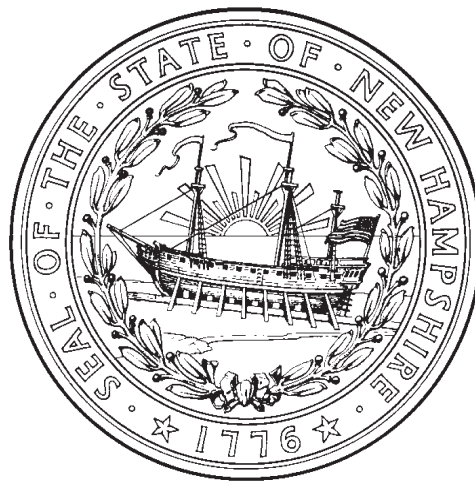


February 6, 2020
No. 6A

STATE OF NEW HAMPSHIRE

Web Site Address: www.gencourt.state.nh.us



**Second Year of the 166th Session of the
New Hampshire General Court**

SENATE CALENDAR ADDENDUM

**THE SENATE WILL MEET IN SESSION ON
THURSDAY, FEBRUARY 13, 2020 AT 10:00 A.M.**

**THE SENATE WILL MEET IN JOINT CONVENTION WITH THE HOUSE
OF REPRESENTATIVES FOR THE GOVERNOR'S STATE OF THE STATE
ADDRESS ON THURSDAY, FEBRUARY 13, 2020 AT 2:00 P.M.**

REGULAR CALENDAR REPORTS

HEALTH AND HUMAN SERVICES

SB 647-FN, relative to medication assisted treatment (MAT) by telemedicine and telehealth services.

Ought to Pass with Amendment, Vote 5-0.

Senator Fuller Clark for the committee.

SB 731-FN, relative to foster family assistance and making an appropriation therefor.

Ought to Pass with Amendment, Vote 4-0.

Senator Fuller Clark for the committee.

SB 741-FN, establishing the born alive protection act.

Inexpedient to Legislate, Vote 3-2.

Senator Sherman for the committee.

HB 490, establishing a commission to study the role of clinical diagnosis and the limitations of serological diagnostic tests in determining the presence or absence of Lyme and other tick-borne diseases and available treatment protocols, and appropriate methods for educating physicians and the public about the inconclusive nature of prevailing test methods and available treatment alternatives.

Ought to Pass with Amendment, Vote 5-0.

Senator Bradley for the committee.

JUDICIARY

HB 263, relative to department of health and human services family reunification practices involving convicted sex offenders.

Ought to Pass with Amendment, Vote 4-0.

Senator Chandley for the committee.

AMENDMENTS

Health and Human Services

February 11, 2020

2020-0609s

01/04

Amendment to SB 647-FN

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

AN ACT relative to telemedicine and substance use disorder.

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

1 Statement of Intent.

I. The general court hereby recognizes that:

(a) Recent medical research indicates that substance use treatment can be safely done utilizing telemedicine (Rubin R., Using Telemedicine to Treat Opioid Use Disorder in Rural Areas. JAMA. Published online August 28, 2019); and

(b) Recent court decisions (*Smith v. Aroostook County*, No. 19-1340 (1st Cir. 2019)) require the increased availability of substance use treatment in correctional facilities; and

(c) Recent changes in federal law allow the registration of certain individuals to prescribe opioid drugs to be used in substance use disorder without first conducting an in person examination (21 U.S.C. section 831(h)), which registration regulations are pending.

II. Therefore, the general court hereby enacts the following legislation.

2 Medicaid Coverage of Telehealth Services. Amend RSA 167:4-d, II(c)-(e) to read as follows:

(c) ***“Doorways” means the statewide points of entry for the delivery of substance use services.***

(d) ***“Originating site” means the location of the patient, whether or not accompanied by a health care provider, at the time services are provided by a health care provider through telemedicine, including, but not limited to, a health care provider’s office, a hospital, or a health care facility, or the patient’s home or another nonmedical environment such as a school-based health center, a university-based health center, or the patient’s workplace.***

[(d)] (e) ***“Remote patient monitoring” means the use of electronic technology to remotely monitor a patient’s health status through the collection and interpretation of clinical data while the patient remains at an originating site. Remote patient monitoring may or may not take place in real time. Remote patient monitoring shall include assessment, observation, education and virtual visits provided by all covered providers including licensed home health care providers.***

[(e)] (f) ***“Store and forward,” as it pertains to telemedicine and as an exception to 42 C.F.R. section 410.78, means the use of asynchronous electronic communications between a patient at an originating site and a health care service provider at a distant site for the purpose of diagnostic and therapeutic assistance in the care of patients. This includes the forwarding and/or transfer of stored medical data from the originating site to the distant site through the use of any electronic device that records data in its own storage and forwards its data to the distant site via telecommunication for the purpose of diagnostic and therapeutic assistance.***

3 Medicaid Coverage of Telehealth Services. Amend RSA 167:4-d, III(a)(2) to read as follows:

(2) By which telemedicine services for primary care, remote patient monitoring, and substance use disorder services shall only be covered in the event that the patient has already established care at an originating site via face-to-face in-person service. ***A provider shall not be required to establish care via face-to-face in-person service when:***

(A) The provider is a Department of Veterans Affairs (VA) practitioner or VA-contracted practitioner not required to obtain a special registration pursuant to 21 U.S.C. section 831(h);

(B) The patient is being treated by, and is physically located in a correctional facility administered by the state of New Hampshire or a New Hampshire county;

(C) The patient is being treated by, and is physically located in a doorway as defined in RSA 167:4-d, II(c);

(D) The patient is being treated by and is physically located in a state designated community mental health center pursuant to RSA 135; or

(E) The patient is being treated by, and physically located in, a hospital or clinic registered in a manner fully consistent with 21 U.S.C. section 823(f); and

4 New Paragraph; Medicaid Coverage of Telehealth Services. Amend RSA 167:4-d by inserting after paragraph V the following new paragraph:

VI. With written consent of the patient receiving medication assisted treatment through telehealth services provided under this section, the health care provider shall provide notification of the patient’s medication assisted treatment to the doorway, as defined in RSA 167:4-d, II(c), within the region where the patient resides.

5 Controlled Drug Act; Prohibited Acts. Amend RSA 318-B:2, XVI to read as follows:

XVI.(a)(1) The prescribing of a non-opioid controlled drug classified in schedule II through IV by means of telemedicine shall be limited to prescribers as defined in RSA 329:1-d, I and RSA 326-B:2, XII(a), who are treating a patient with whom the prescriber has an in-person practitioner-patient relationship, for purposes of monitoring or follow-up care~~], or who are treating patients at a state designated community mental health center pursuant to RSA 135-C or at a Substance Abuse and Mental Health Services Administration (SAMHSA)-certified state opioid treatment program, and shall require an initial in-person exam by a practitioner licensed to prescribe the drug].~~ ***A provider shall not be required to establish care via face-to-face in-person service when:***

(A) The provider is a Department of Veterans Affairs (VA) practitioner or VA-contracted practitioner not required to obtain a special registration pursuant to 21 U.S.C. section 831(h);

(B) The patient is being treated by, and is physically located in a correctional facility administered by the state of New Hampshire or a New Hampshire county;

(C) The patient is being treated by, and is physically located in a doorway as defined in RSA 167:4-d, II(c);

(D) The patient is being treated by and is physically located in a state designated community mental health center pursuant to RSA 135; or

(E) The patient is being treated by, and physically located in, a hospital or clinic registered in a manner fully consistent with 21 U.S.C. section 823(f).

(2) Subsequent in-person exams shall be by a practitioner licensed to prescribe the drug at intervals appropriate for the patient, medical condition, and drug, but not less than annually.

(b)(1) The prescribing of an opioid controlled drug classified in schedule II through IV by means of telemedicine shall be limited to prescribers as defined in RSA 329:1-d, I and RSA 326-B:2, XII(a) ~~who are treating patients at a SAMHSA-certified state opioid treatment program. Such prescription authority shall require an initial in-person exam by a practitioner licensed to prescribe the drug and].~~ ***A provider shall not be required to establish care via face-to-face in-person service when:***

(A) The provider is a Department of Veterans Affairs (VA) practitioner or VA-contracted practitioner not required to obtain a special registration pursuant to 21 U.S.C. section 831(h);

(B) The patient is being treated by, and is physically located in a correctional facility administered by the state of New Hampshire or a New Hampshire county;

(C) The patient is being treated by, and is physically located in a Doorway as defined in RSA 167:4-d, II(c);

(D) The patient is being treated by and is physically located in a state designated community mental health center pursuant to RSA 135; or

(E) The patient is being treated by, and physically located in, a hospital or clinic registered in a manner fully consistent with 21 U.S.C. section 823(f).

(2) Subsequent in-person exams shall be by a practitioner licensed to prescribe the drug at intervals appropriate for the patient, medical condition, and opioid, but not less than annually.

6 New Paragraph; Nurse Practice Act; Rulemaking Added. Amend RSA 326-B:9 by inserting after paragraph XII the following new paragraph:

XIII. A process for registering practitioners who have been granted a special registration to prescribe controlled substances via telemedicine pursuant to 21 U.S.C. section 831(h).

7 Physicians and Surgeons; Telemedicine. Amend RSA 329:1-d, III and IV to read as follows:

III. It shall be unlawful for any person to prescribe by means of telemedicine a controlled drug classified in schedule II through IV, ***except substance use disorder (SUD) treatment as permitted in locations enumerated in paragraph IV. Methadone hydrochloride, as defined in RSA 318-B:10, VII(d)(2) shall not be included in the exemption.***

IV.(a)(1) The prescribing of a non-opioid controlled drug classified in schedule II through IV by means of telemedicine shall be limited to prescribers as defined in RSA 329:1-d, I and RSA 326-B:2, XII(a), who are treating a patient with whom the prescriber has an in-person practitioner-patient relationship, for purposes of monitoring or follow-up care ~~or who are treating patients at a state designated community mental health center pursuant to RSA 135-C or at a Substance Abuse and Mental Health Services Administration (SAMHSA)-certified state opioid treatment program, and shall require an initial in-person exam by a practitioner licensed to prescribe the drug].~~ ***A provider shall not be required to establish care via face-to-face in-person service when:***

(A) The provider is a Department of Veterans Affairs (VA) practitioner or VA-contracted practitioner not required to obtain a special registration pursuant to 21 U.S.C. section 831(h);

(B) The patient is being treated by, and is physically located in a correctional facility administered by the state of New Hampshire or a New Hampshire county;

(C) The patient is being treated by, and is physically located in a Doorway as defined in RSA 167:4-d, II(c);

(D) The patient is being treated by and is physically located in a state designated community mental health center pursuant to RSA 135; or

(E) The patient is being treated by, and physically located in, a hospital or clinic registered in a manner fully consistent with 21 U.S.C. section 823(f).

(2) Subsequent in-person exams shall be by a practitioner licensed to prescribe the drug at intervals appropriate for the patient, medical condition, and drug, but not less than annually.

(b)(1) The prescribing of an opioid controlled drug classified in schedule II through IV by means of telemedicine shall be limited to prescribers as defined in RSA 329:1-d, I and RSA 326-B:2, XII(a)[~~who are treating patients at a SAMHSA-certified state opioid treatment program. Such prescription authority shall require an initial in-person exam by a practitioner licensed to prescribe the drug and~~]. ***A provider shall not be required to establish care via face-to-face in-person service when:***

(A) The provider is a Department of Veterans Affairs (VA) practitioner or VA-contracted practitioner not required to obtain a special registration pursuant to 21 U.S.C. section 831(h);

(B) The patient is being treated by, and is physically located in a correctional facility administered by the state of New Hampshire or a New Hampshire county;

(C) The patient is being treated by, and is physically located in a Doorway as defined in RSA 167:4-d, II(c);

(D) The patient is being treated by and is physically located in a state designated community mental health center pursuant to RSA 135; or

(E) The patient is being treated by, and physically located in, a hospital or clinic registered in a manner fully consistent with 21 U.S.C. section 823(f).

(2) Subsequent in-person exams shall be by a practitioner licensed to prescribe the drug at intervals appropriate for the patient, medical condition, and opioid, but not less than annually.

8 New Paragraph; Physicians and Surgeons; Rulemaking. Amend RSA 329:9 by inserting after paragraph XX the following new paragraph:

XXI. A process for registering practitioners who have been granted a special registration to prescribe controlled substances via telemedicine pursuant to 21 U.S.C. section 831(h).

9 Contingency. If HB 1623-FN of the 2020 regular legislative session becomes law, sections 1-8 of this act shall not take effect. If HB 1623-FN does not become law, then sections 1-8 of this act shall take effect upon its passage.

10 Effective Date.

I. Sections 1-8 of this act shall take effect as provided in section 9 of this act.

II. The remainder of this act shall take effect upon its passage.

2020-0609s

AMENDED ANALYSIS

This bill clarifies prescribing certain drugs via telemedicine.

Health and Human Services

February 11, 2020

2020-0606s

05/04

Amendment to SB 731-FN

Amend the bill by replacing section 2 with the following:

2 New Paragraph; Foster Parents; Foster Care Allowance. Amend RSA 170-E:52 by inserting after paragraph VI the following new paragraph:

VII. The department shall establish a supplemental foster care allowance program to provide financial support to assist first-time foster parents or licensees at renewal, who are required to make in-home adjustments to meet licensure requirements. In order for an expense to be eligible, the department shall require prior approval of the project before any improvements are initiated. Upon receipt of an authorized invoice for an improvement, the department may make payments directly to the contractor on behalf of the applicant or provide reimbursement to the applicant upon demonstration of payment. There shall be a limit of \$2,500 in reimbursable expenses per foster family home. The department may transfer unexpended funds from other accounting units and class lines in order to supplement any appropriation made to the department for purposes of this paragraph; provided that the funding for the supplemental foster care allowance program shall not exceed \$100,000 per fiscal year.

Amend the bill by replacing section 5 with the following:

5 Effective Date.

I. Section 4 of this act shall take effect July 1, 2021.

II. The remainder of this act shall take effect September 1, 2020.

Senate Judiciary
February 11, 2020
2020-0604s
06/04

Amendment to HB 263

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

AN ACT establishing a committee to study reunification and termination of parental rights when a parent has been convicted of a crime against a child.

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

1 Committee Established. There is established a committee to study reunification and termination of parental rights when a parent has been convicted of a crime against a child.

2 Membership and Compensation.

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

(a) One member of the senate, appointed by the president of the senate.

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

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

3 Duties. The committee shall look at issues of reunification and termination of parental rights in cases where a parent has been convicted of an offense against a child as defined in RSA 651-B:1, VII.

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

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2020.

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

2020-0604s

AMENDED ANALYSIS

This bill establishes a committee to study reunification and termination of parental rights when a parent has been convicted of a crime against a child.

Health and Human Services
 February 11, 2020
 2020-0611s
 01/04

Amendment to HB 490

Amend RSA 141-C:6-a, II(a)(3) as inserted by section 2 of the bill by replacing it with the following:

(3) A representative of the New Hampshire Medical Society, appointed by the society.

Amend RSA 141-C:6-a, II(a) as inserted by section 2 of the bill by inserting after subparagraph (7) the following new subparagraphs:

(8) A physician specializing in neurology, rheumatology, or later-stage tick-borne infection treatment specialist, appointed by the Infectious Disease Society of America (IDSA).

(9) A tick-borne disease expert, appointed by the SOLO Wilderness Medicine School.

(10) A nurse practitioner or a representative of the New Hampshire Nurse Practitioner Association, appointed by the association.

Amend RSA 141-C:6-a, III-V as inserted by section 2 of the bill by replacing them with the following:

III. The commission shall:

(a) Consider expert studies and testimony on the role of clinical diagnosis, the limitations of serological diagnostic tests, and the complexities presented by co-infections relating to symptomology, diagnosis, and treatment in determining the presence or absence of Lyme and other tick-borne diseases, including at a minimum testing methods recommended respectively by IDSA, ILADS, the Center for Disease Control and Prevention (CDC), and the Tick-Borne Disease Working Group (TBDWG) established under the 21st Century Cures Act of 2016.

(b) Consider and make recommendations relative to appropriate methods to educate the medical profession and the public on the inconclusive nature of currently prevailing methods of diagnosing Lyme and other tick-borne diseases.

(c) Consider the newly proposed recommendations on tick-borne illness by the Centers for Disease Control and Prevention.

(d) Recommend legislation that the commission deems appropriate to address the rising incidence of chronic Lyme and other tick-borne diseases in New Hampshire.

IV. The first meeting of the commission shall be called by the first-named house member, who shall serve as chairperson of the commission. The first meeting of the commission shall be held within 45 days of the effective date of this section. The commission shall meet as often as necessary, but no less often than monthly, and shall hear testimony from patients treated for chronic Lyme and other tick-borne diseases, medical practitioners licensed in New Hampshire or other states who diagnose and treat chronic Lyme and other tick-borne diseases, and academic and professional experts experienced in the diagnosis and treatment of such diseases. Six members of the commission shall constitute a quorum.

V. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2021.

Amend paragraph I of section 4 of the bill by replacing it with the following:

I. Section 3 of this act shall take effect November 1, 2021.