

CHAPTER 183
HB 143 - FINAL VERSION

8Apr2021... 0444h
05/27/2021 1589s

2021 SESSION

21-0105
10/05

HOUSE BILL **143**

AN ACT relative to an electronic prescription drug program and establishing licensure and requirements for licensed social workers, licensed social work associates, and social work conditional licenses.

SPONSORS: Rep. Merchant, Sull. 4

COMMITTEE: Health, Human Services and Elderly Affairs

AMENDED ANALYSIS

This bill requires electronic prescribing for controlled drugs under certain circumstances. The bill also establishes under the board of mental health practice licenses and requirements for licensure and conditional licensure for licensed social workers and licensed social work associates.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to an electronic prescription drug program and establishing licensure and requirements for licensed social workers, licensed social work associates, and social work conditional licenses.

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

1 183:1 Pharmacists and Pharmacies; Prescriptions. Amend RSA 318:47-c, I(b) to read as follows:

2 (b) A patient shall be entitled to receive a paper prescription instead of an oral or
3 electronically transmitted prescription, ***except prescriptions for controlled drugs as defined in***
4 ***RSA 318-B:1, VI.***

5 183:2 New Paragraph; Pharmacists and Pharmacies; Prescriptions. Amend RSA 318:47-c by
6 inserting after paragraph II the following new paragraph:

7 III.(a) Notwithstanding any provision of law to the contrary, no person shall issue a
8 prescription for a controlled drug unless the prescription is made by electronic prescription from the
9 person issuing the prescription to a pharmacy and the electronic prescription contains the
10 information and signature required in paragraph II, except for prescriptions issued:

11 (1) In circumstances where electronic prescribing is not available due to temporary
12 technological or electrical failure.

13 (2) By a practitioner to be dispensed by a pharmacy located outside of New
14 Hampshire, provided that such pharmacy complies with the laws and regulations of the state where
15 the pharmacy is located.

16 (3) When the prescriber is the dispenser.

17 (4) By a practitioner for a drug that the federal Food and Drug Administration
18 (FDA) requires the prescription to contain certain elements that are not able to be accomplished with
19 electronic prescribing.

20 (5) By practitioners who have received a waiver or a renewal thereof for a specified
21 period determined by the practitioner's licensing board, not to exceed one year, from the requirement
22 to use electronic prescribing, pursuant to a process established in rules of the board, due to economic
23 hardship, technological limitations that are not reasonably within the control of the practitioner, or
24 other exceptional circumstance demonstrated by the practitioner.

25 (6) In circumstances where electronic prescribing is not available due to RSA 318-
26 B:2, VI-a.

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1 (7) For a compounded prescription for a hospice patient or in circumstances where
2 access to electronic prescribing technology is temporarily unavailable to electronically prescribe a
3 controlled drug for a hospice patient.

4 (8) By a veterinarian, until such time that the New Hampshire board of veterinary
5 medicine determines that electronic prescribing software is widely available for veterinarians and
6 notifies the pharmacy board. The board of veterinary medicine shall at least annually make such a
7 determination.

8 (b) A pharmacist who receives a written, oral, or faxed prescription shall not be required
9 to verify that the prescription properly falls under one of the exceptions under subparagraph (a).
10 Pharmacists may continue to dispense medications from otherwise valid written, oral, or faxed
11 prescriptions that are consistent with this section.

12 183:3 New Paragraph; Controlled Drug Act; Acts Prohibited. Amend RSA 318-B:2 by inserting
13 after paragraph VI the following new paragraph:

14 VI-a. No person or entity shall issue clinical decision support alerts or similar notices,
15 warnings, or announcements by means of electronic health record software or similar electronic
16 means designed to increase prescriptions for scheduled drug products, in violation of the Anti-
17 Kickback Statute 42 U.S.C. section 1320a-7b(b), or with the intent to defraud the United States
18 pursuant to 18 U.S.C. section 371.

19 183:4 New Paragraph; Consumer Protection; Acts Unlawful. Amend RSA 358-A:2 by inserting
20 after paragraph XVII the following new paragraph:

21 XVIII. Issuing clinical decision support alerts or similar notices, warnings, or
22 announcements by means of electronic health record software or similar electronic means designed
23 to increase prescriptions for scheduled drug products, in violation of the Anti-Kickback Statute 42
24 U.S.C. section 1320a-7b(b), or with the intent to defraud the United States pursuant to 18 U.S.C.
25 section 371.

26 183:5 New Subparagraph; Controlled Drug Prescription Health and Safety Program; Dispenser
27 Report. Amend RSA 318-B:33, IV by inserting after subparagraph (o) the following new
28 subparagraph:

29 (p) The format of the prescription: electronic, faxed, written, oral, or other.

30 183:6 Mental Health Practice; Fees. Amend RSA 330-A:12, I to read as follows:

31 I. The board shall establish fees pursuant to RSA 541-A for supervisory agreements;
32 applications for licensed pastoral psychotherapist, independent clinical social worker, school social
33 worker, *licensed social worker, licensed social work associate*, clinical mental health
34 counselor, [~~and~~] marriage and family therapist, *and conditional licenses*; renewal of license;
35 renewal of dual license; reinstatement of license; inactive license status; reactivation of an inactive
36 license; examination of applicants; transcribing and transferring records; and other services,
37 including investigations and hearings conducted under this chapter.

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1 183:7 New Sections; Mental Health Practice; Licensed Social Worker; Licensed Social Work
2 Associate; Conditional Licenses. Amend RSA 330-A by inserting after section 18-a the following new
3 sections:

4 330-A:18-b Licensed Social Workers: Initial License.

5 I. An applicant for an initial license as a licensed social worker shall comply with the
6 following requirements:

7 (a) Graduate with a bachelor's degree in social work from a college or university
8 approved by the Council on Social Work Education.

9 (b) Complete 300 hours of social work or mental health education within the degree-
10 granting program or separately.

11 (c) Complete 4,000 hours of supervised work experience.

12 (d) Complete 300 hours of supervised practical training within the degree-granting
13 program, as part of the supervised work experience or separately.

14 (e) Pass a national proctored examination approved by the board.

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

16 II. The scope of practice of a licensed social worker shall be the screening, assessment,
17 treatment planning, and treatment of mental health conditions as defined in this section as follows:

18 (a) The performance of clinical evaluation including the screening and assessment of
19 mental health disorders, the assessment and identification of symptoms of co-occurring mental
20 health disorders and differential diagnosis indicators, and the development of preliminary mental
21 health disorder diagnoses for further assessment and confirmation by an appropriate professional.
22 This includes severity assessment and assessment of dangerousness to self or others.

23 (b) The performance of treatment planning and case management referrals including co-
24 occurring substance use disorders and medical conditions, case management and service
25 coordination including implementation of treatment plans, consultation, coordination of care with
26 mental health and other community providers, ongoing assessment of progress and needs, and client
27 advocacy, education, and documentation.

28 (c) The performance of counseling, including:

29 (1) Individual, group, family, and significant other counseling; and

30 (2) Crisis prevention and intervention to include enlisting the support of trained
31 personnel to manage risk of harm to self or others.

32 (d) Adherence to professional and ethical responsibilities as determined by the board.

33 III. During the first 2 years of licensure, a licensed social worker may engage in practice
34 only under clinical supervision of a licensed clinical social worker, a licensed mental health
35 counselor, a master licensed drug and alcohol counselor, a psychiatric APRN, or a licensed mental
36 health provider approved by the board. The supervising clinician shall sign off on any clinical
37 diagnostic assessment and treatment plan established by a licensed social worker.

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1 330-A:18-c Licensed Social Work Associate: Initial License.

2 I. An applicant for an initial license as a licensed social work associate shall comply with the
3 following requirements:

4 (a)(1) Graduate with a bachelor's degree in clinical mental health, social work,
5 psychology, behavioral health counseling, human services discipline, or equivalent program from an
6 accredited college or university.

7 (2) Complete 300 hours of social work or mental health education within the degree-
8 granting program or separately.

9 (3) Complete 4,000 hours of supervised work experience.

10 (4) Complete 300 hours of supervised practical training within the degree-granting
11 program, as part of the supervised work experience or separately.

12 (5) Pass a national proctored examination approved by the board.

13 (6) Meet other criteria as established by the board; or

14 (b)(1) Graduate with an associate's degree in clinical mental health, social work,
15 psychology, behavioral health counseling, human services discipline, or equivalent program.

16 (2) Complete 300 hours of social work or mental health education within the degree-
17 granting program or separately.

18 (3) Complete 6,000 hours of supervised work experience.

19 (4) Complete 300 hours of supervised practical training within the degree-granting
20 program, as part of the supervised work experience or separately.

21 (5) Pass a national proctored examination approved by the board.

22 (6) Meet other criteria as established by the board.

23 II. The scope of practice of a licensed social work associate shall be the screening,
24 assessment, treatment planning, and treatment of mental health conditions under clinical
25 supervision as defined in this section as follows:

26 (a) The performance of clinical evaluation including the screening and assessment of
27 mental health disorders, the assessment and identification of symptoms of co-occurring mental
28 health disorders and differential diagnosis indicators, and the development of preliminary mental
29 health disorder diagnoses for further assessment and confirmation by an appropriate professional.
30 This includes severity assessment and assessment of dangerousness to self or others.

31 (b) The performance of treatment planning and case management referrals including
32 cooccurring substance use disorders and medical conditions, case management and service
33 coordination including implementation of treatment plans, consultation, coordination of care with
34 mental health, substance use treatment and other community providers, ongoing assessment of
35 progress and needs, and client advocacy, education, and documentation.

36 (c) The performance of counseling, including:

37 (1) Individual, group, family, and significant other counseling; and

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1 (2) Crisis prevention and intervention to include enlisting the support of trained
2 personnel to manage risk of harm to self or others.

3 (d) Adherence to professional and ethical responsibilities as determined by the board.

4 III. A licensed social work associate may engage in practice only under clinical supervision
5 of a licensed clinical social worker, a licensed mental health counselor, a master licensed drug and
6 alcohol counselor, a psychiatric APRN, or a licensed mental health provider approved by the board.
7 The supervising clinician shall sign off on any clinical diagnostic assessment and treatment plan
8 established by a licensed social work associate.

9 330-A:18-d Social Work; Conditional License.

10 I. Applicants for licensure under this section may apply to the board for conditional
11 licensure. To receive a conditional license, applicants shall comply with the following requirements:

12 (a) Clinical Social Worker:

13 (1) Hold a master's or doctoral degree in social work or social welfare from a CSWE
14 approved program.

15 (2) Obtain a board approved supervisory agreement with documented intent to
16 pursue licensure as a clinical social worker under this chapter.

17 (3) Meet other criteria as reasonably established by the board.

18 (b) School Social Worker:

19 (1) Hold a master's or doctoral degree in social work or social welfare from a CSWE
20 approved program.

21 (2) Obtain a board approved supervisory agreement, with documented intent to
22 pursue licensure as a clinical social worker under this chapter.

23 (3) Meet other criteria as reasonably established by the board.

24 (c) Licensed Social Worker:

25 (1) Hold a bachelor's degree in social work or social welfare from a CSWE approved
26 program.

27 (2) Obtain a board approved supervisory agreement consistent with RSA 330-A:18-b,
28 III, with documented intent to pursue licensure as a licensed social worker under this chapter.

29 (3) Meet other criteria as reasonably established by the board.

30 (d) Licensed Social Work Associate:

31 (1) Hold an associate's or bachelor's degree in clinical mental health, social work,
32 psychology, behavioral health counseling, human services discipline, or equivalent program from an
33 accredited college or university.

34 (2) Complete 300 hours of social work or mental health education within the degree-
35 granting program or separately.

36 (3) Complete 300 hours of supervised practical training within the degree-granting
37 program, as part of the supervised work experience or separately.

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1 (4) Obtain a board approved supervisory agreement consistent with RSA 330-A:18-c,
2 III, with documented intent to pursue licensure as a licensed social work associate under this
3 chapter.

4 (5) Meet other criteria as reasonably established by the board.

5 (e) Clinical Mental Health Counselor:

6 (1) Hold a master's or doctoral degree in clinical mental health counseling from a
7 CACREP accredited institution or its equivalent which has received regional accreditation from the
8 Association of Secondary Schools and Colleges.

9 (2) Obtain a board approved supervisory agreement with documented intent to
10 pursue licensure as a clinical mental health counselor under this chapter.

11 (3) Meet other criteria as reasonably established by the board.

12 (f) Marriage and Family Therapist:

13 (1) Hold a master's or doctoral degree in family therapy from a program accredited
14 by the Commission on Accreditation for Marriage and Family Therapy Education or has a master's
15 degree or doctorate degree with a concentration in the field of marriage and family therapy from a
16 regionally accredited institution or has a clinical membership in the American Association for
17 Marriage and Family Therapy.

18 (2) Obtain a board approved supervisory agreement with documented intent to
19 pursue licensure as a marriage and family therapist under this chapter.

20 (3) Meet other criteria as reasonably established by the board.

21 II. Conditional licenses issued under this section shall be valid for a period not to exceed 2
22 years from the date of issuance. Applicants in good standing with the board may apply for a one-
23 time renewal of a conditional license.

24 183:8 Mental Health Practice; Unlawful Practice. Amend RSA 330-A:23, I-II to read as follows:

25 I. Except as provided in RSA 330-A:34, it shall be unlawful for any person to be engaged in
26 mental health practice unless that person is licensed by the board, working as a candidate under the
27 direct supervision of a person licensed by the board, ***conditionally licensed by the board***, or
28 engaged in the practice of other mental health services as an alternative provider as defined in RSA
29 330-A:2, I. The license or the registration of such person shall be current and valid. It shall be
30 unlawful for any person to practice as or to refer to oneself as a pastoral psychotherapist, a clinical
31 social worker, ***a school social worker, a licensed social worker, a licensed social work***
32 ***associate***, a clinical mental health counselor, or a marriage and family therapist, or use the word
33 "psychotherapist," or any variation thereof, in such person's title unless that person is licensed by
34 the board or working as a candidate under the direct supervision of a person licensed ***or***
35 ***conditionally licensed*** by the board. Psychiatrists licensed under RSA 329 and psychiatric nurse
36 practitioners licensed under RSA 326-B:18 may refer to themselves as psychotherapists.

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1 II. Except as otherwise provided in this chapter, any person who violates paragraph I or
2 paragraph III of this section or who violates any of the other provisions of this chapter relating to
3 pastoral psychotherapy, clinical social work, *licensed social work*, clinical mental health
4 counseling, or marriage and family therapy, or, having had his or her license suspended or revoked,
5 shall continue to represent himself or herself as a licensed pastoral psychotherapist, clinical social
6 worker, *school social worker*, *licensed social worker*, *licensed social work associate*, clinical
7 mental health counselor, or marriage and family therapist, or as a psychotherapist, shall be guilty of
8 a class A misdemeanor if a natural person, and a felony if any other person, and each violation shall
9 be deemed a separate offense.

10 183:9 New Section; Managed Care Law; Credentialing Verification Procedures. Amend RSA
11 420-J by inserting after section 4 the following new section:

12 420-J:4-a Facility Credentialing.

13 I. Health carriers shall credential qualified entities administering community mental health
14 programs as defined under RSA 135-C:7, entities administering community substance use disorder
15 treatment programs as defined under RSA 172:2-c, and community health centers as facilities when
16 paneling and enrolling participating providers, consistent with health carriers' facility credentialing
17 standards and practices, unless the entity requests professional level credentialing. Health carriers
18 shall not be required to credential entities who do not meet the health carriers' facility credentialing
19 eligibility standards. If an entity disagrees with the outcome of a health carrier's application of its
20 facility credentialing standards and practices, the entity may request a formal hearing and review of
21 the carrier's decision by the New Hampshire insurance department pursuant to RSA 400-A:17
22 and/or file a complaint with the New Hampshire insurance department's health care provider
23 complaint process.

24 II. Nothing in this section shall be construed to require a health carrier to select or enroll a
25 specific facility as a participating provider.

26 183:10 Effective Date.

27 I. Sections 1-5 of this act shall take effect January 1, 2022.

28 II. Sections 6-8 of this act shall take effect 60 days after its passage.

 III. The remainder of this act shall take effect 30 days after its passage.

Approved: August 10, 2021

Effective Date:

I. Section 1-5 shall take effect January 1, 2022.

II. Sections 6-8 shall take effect October 9, 2021.

III. Remainder shall take effect September 9, 2021.