

CHAPTER 189
HB 479 - FINAL VERSION

05/20/2021 1446s
05/20/2021 1529s
24Jun2021... 2057EBA

2021 SESSION

21-0567
10/11

HOUSE BILL **479**

AN ACT relative to pharmacist provider status, nicotine cessation therapy, and pharmacy benefit manager requirements.

SPONSORS: Rep. Merchant, Sull. 4; Rep. Marsh, Carr. 8; Rep. Woods, Merr. 23; Rep. Knirk, Carr. 3; Rep. Murphy, Graf. 12; Rep. Deshaies, Carr. 6; Sen. Prentiss, Dist 5

COMMITTEE: Health, Human Services and Elderly Affairs

AMENDED ANALYSIS

This bill includes pharmacists as providers for certain covered services including Medicaid and authorizes pharmacists to provide nicotine cessation therapy pursuant to a standing order from a physician, physician assistant, or APRN and to be reimbursed under Medicaid. The bill also prohibits pharmacy benefit managers from requiring additional accreditation of health care providers.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 pharmacist provider status, nicotine cessation therapy, and pharmacy benefit manager requirements.

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

1 189:1 New Paragraph; Department of Health and Human Services; General Provisions;
2 Pharmacists. Amend RSA 126-A:3 by inserting after paragraph III the following new paragraph:

3 III-a.(a) Pharmacists shall be considered providers under RSA 126-A:3, III for the purpose of
4 billing for providing services performed within the scope of a person's license when said service
5 would have been covered under this section if furnished by a physician or as an incident to a
6 physician's service, or furnished by a physician assistant or an advanced registered nurse
7 practitioner.

8 (b) The commissioner shall submit a Title XIX Medicaid state plan amendment to the
9 federal Centers for Medicare and Medicaid Services to implement this paragraph, if necessary.

10 189:2 Managed Care Program; Pharmacists Services. Amend RSA 126-A:5, XIX(a) to read as
11 follows:

12 XIX.(a) The commissioner shall employ a managed care model for administering the
13 Medicaid program and its enrollees to provide for managed care services for all Medicaid populations
14 throughout New Hampshire consistent with the provisions of 42 U.S.C. section 1396u-2. Models for
15 managed care may include, but not be limited to, a traditional capitated managed care organization
16 contract, an administrative services organization, an accountable care organization, or a primary
17 care case management model, or a combination thereof, offering the best value, quality assurance,
18 and efficiency, maximizing the potential for savings, and presenting the most innovative approach
19 compared to other externally administered models. Services to be managed within the model shall
20 include all mandatory Medicaid covered services and may include, but shall not be limited to, care
21 coordination, utilization management, disease management, pharmacy benefit management,
22 provider network management, quality management, and customer services. ***The model shall***
23 ***reimburse pharmacists for services described in RSA 126-A:3, III-a.*** The commissioner shall
24 enter into contracts with the vendors that demonstrate the greatest ability to satisfy the state's need
25 for value, quality, efficiency, innovation, and savings. The commissioner shall establish rates based
26 on the appropriate model for the contract that is full risk to the vendors. The rates shall be
27 established in rate cells or other appropriate units for each population or service provided including,
28 but not limited to, persons eligible for temporary assistance to needy families (TANF), aid for the

CHAPTER 189
HB 479 - FINAL VERSION
- Page 2 -

1 permanently and totally disabled (APTD), breast and cervical cancer program (BCCP), home care for
2 children with severe disabilities (HC-CSD), and those residing in nursing facilities. The rates and/or
3 payment models for the program shall be presented to the fiscal committee of the general court on an
4 annual basis. The managed care model or models' selected vendors providing the Medicaid services
5 shall emphasize patient-centered, value-based care and include enhanced care management of high-
6 risk populations as identified by the department. In contracting for the managed care program, the
7 department shall ensure no reduction in the quality of care of services provided to enrollees in the
8 managed care model and shall exercise all due diligence to maintain or increase the current level of
9 quality of care provided. The commissioner may, in consultation with the fiscal committee, adopt
10 rules, if necessary, to implement the provisions of this paragraph. The department shall seek, with
11 the approval of the fiscal committee, all necessary and appropriate waivers to implement the
12 provisions of this paragraph.

13 189:3 New Paragraph; Pharmacists and Pharmacies; Definitions. Amend RSA 318:1 by
14 inserting after paragraph XXXV the following new paragraph:

15 XXXVI. "Nicotine cessation therapy" means medications which the United States Food and
16 Drug Administration (FDA) classifies as available by prescription or without a prescription for the
17 purpose of nicotine cessation.

18 189:4 New Section; Pharmacists and Pharmacies; Nicotine Cessation Therapy. Amend RSA 318
19 by inserting after section 47-l the following new section:

20 318:47-m Nicotine Cessation Therapy.

21 I. In this section, "standing order" means a written and signed protocol authored by a
22 physician licensed under RSA 329:12, a physician assistant licensed under RSA 328-D:2, or an
23 advanced practice registered nurse licensed under RSA 326-B:18. The agreement shall specify a
24 protocol allowing a licensed pharmacist to provide nicotine cessation therapy under the delegated
25 prescriptive authority of the physician, physician assistant, or APRN, a mechanism to document
26 screening performed and the prescription in the patient's medical record, and include a plan for
27 evaluating and treating adverse events. The prescriptions shall be considered a legitimate medical
28 purpose in the usual course of professional practice.

29 II. Licensed pharmacists following standing orders may provide nicotine cessation therapy
30 to persons in this state without a prior prescription.

31 III. A pharmacist, pharmacy, physician, physician assistant, or APRN issuing or following
32 standing orders shall be prohibited from seeking personal financial benefit by participating in any
33 incentive-based program or accepting any inducement that influences or encourages therapeutic or
34 product changes or the ordering of tests or services.

35 IV. Prior to providing nicotine cessation therapy under this section, a pharmacist shall
36 complete an Accreditation Council for Pharmacy Education (ACPE) accredited educational training
37 program related to nicotine cessation.

CHAPTER 189
HB 479 - FINAL VERSION
- Page 3 -

1 V. The pharmacist shall provide each recipient of nicotine cessation therapy with a
2 standardized information sheet written in plain language, which shall include, but is not limited to,
3 the indication for the use of the nicotine cessation therapy, the importance of follow-up care, and
4 health care referral information.

5 VI. The board shall adopt rules, pursuant to RSA 541-A, relative to:

6 (a) Education and training required under paragraph IV.

7 (b) Content and format of the information sheet required under paragraph V, in
8 consultation with the commissioner of the department of health and human services.

9 (c) A model statewide protocol, with the consent of the board of medicine, the board of
10 nursing, and the department of health and human services to be used for the purposes of paragraph
11 I.

12 (d) Communication to the patient's primary care provider with the consent of the
13 patient.

14 VII. The board of medicine shall not deny, revoke, suspend, or otherwise take disciplinary
15 action against a physician or physician assistant based on a pharmacist's failure to follow standing
16 orders provided the provisions of this section and the rules adopted under this section are satisfied.
17 The board of nursing shall not deny, revoke, suspend, or otherwise take disciplinary action against
18 an APRN based on a pharmacist's failure to follow standing orders provided the provisions of this
19 section and the rules adopted under this section are satisfied. The board of pharmacy shall not deny,
20 revoke, suspend, or otherwise take disciplinary action against a pharmacist who follows standing
21 orders based on a defect in those standing orders provided the provisions of this section and the rules
22 adopted under this section are satisfied.

23 189:5 New Paragraph; Managed Care Law; Provider Contracts; Pharmacy Benefit Managers.
24 Amend RSA 420-J:8 by inserting after paragraph XVI the following new paragraph:

25 XVII. A pharmacy benefit manager shall not require accreditation of providers other than
26 accreditation requirements as adopted by the New Hampshire pharmacy board or by another state
27 or federal entity.

28 189:6 Prospective Repeal. RSA 420-J:8, XVII, relative to prohibiting pharmacy benefit
29 managers to require providers to obtain certain accreditation, is repealed.

30 189:7 Effective Date.

31 I. Section 6 of this act shall take effect January 1, 2025.

32 II. Sections 1-4 of this act shall take effect January 1, 2022.

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

Approved: August 10, 2021

Effective Date:

I. Section 6 shall take effect January 1, 2025.

II. Sections 1-4 shall take effect January 1, 2022.

III. Remainder shall take effect August 10, 2021.

CHAPTER 189
HB 479 - FINAL VERSION
- Page 4 -

1