

SB 149-FN - AS AMENDED BY THE HOUSE

03/18/2021 0788s

04/01/2021 1055s

3Jun2021... 1295h

2021 SESSION

21-1074

10/04

SENATE BILL **149-FN**

AN ACT adopting omnibus legislation on health and human services.

SPONSORS: Sen. Sherman, Dist 24

COMMITTEE: Health and Human Services

---

AMENDED ANALYSIS

This bill adopts legislation relative to:

I. Clarifying Medicaid spend-down requirements and requiring a report to the oversight committee on health and human services.

II. Automated pharmacy systems.

III. Health facilities providing care in the declared emergency.

---

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

SB 149-FN - AS AMENDED BY THE HOUSE

03/18/2021 0788s  
04/01/2021 1055s  
3Jun2021... 1295h

21-1074  
10/04

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty One*

AN ACT adopting omnibus legislation on health and human services.

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

1 1 Sponsorship. This act consists of the following proposed legislation:

2 Part I. LSR 21-0427, clarifying Medicaid spend-down requirements and requiring a report to  
3 the oversight committee on health and human services, sponsored by Sen. Rosenwald, Prime/Dist 13;  
4 Sen. Hennessey, Dist 1; Sen. Whitley, Dist 15; Sen. Sherman, Dist 24; Sen. Bradley, Dist 3; Rep.  
5 Guthrie, Rock. 13; Rep. McMahon, Rock. 7; Rep. Marsh, Carr. 8; Rep. Knirk, Carr. 3; Rep. Mullen,  
6 Hills. 7.

7 Part II. LSR 21-0936, relative to automated pharmacy systems, sponsored by Sen. Carson,  
8 Prime/Dist 14.

9 Part III. LSR 21-1006, relative to health facilities providing care in the declared emergency,  
10 sponsored by Sen. Gray, Prime/Dist 6.

11 2 Legislation Enacted. The general court hereby enacts the following legislation:

12 PART I

13 Clarifying Medicaid spend-down requirements

14 and requiring a report to the oversight committee on health and human services.

15 1 New Section; Spend-Down Requirements for Medical Expenses. Amend RSA 167 by inserting  
16 after section 4-d the following new section:

17 167:4-e Spend-down Requirements for Medical Expenses. For the purposes of off-setting the  
18 Medicaid spend-down requirements, mental health expenses shall be included as medical expenses.

19 2 Report to Oversight Committee on Health and Human Services.

20 I. The department of health and human services shall submit an interim report on or before  
21 October 1, 2021, to the oversight committee on health and human services, established pursuant to  
22 RSA 126-A:13, relative to actions taken to ensure the uniform application of spend-down  
23 requirements. The report shall include a description of how spend-down requirements were  
24 addressed in remedial staff training programs, updates to the policy manual, and updates to the  
25 brochure and any other department publications.

26 II. The department shall submit a final report by October 1, 2022, on the application of  
27 spend-down requirements. The report shall include data indicating how spend-down requirements  
28 have been applied since the interim report was filed.

29 3 Effective date. Part I of this act shall take effect upon its passage.

**SB 149-FN - AS AMENDED BY THE HOUSE**

**- Page 2 -**

**PART II**

Relative to automated pharmacy systems.

1  
2  
3 1 New Section; Pharmacies; Automated Pharmacy Systems. Amend RSA 318 by inserting after  
4 section 42 the following new section:

5 318:42-a Automated Pharmacy Systems; Long-term Care Facilities, Hospices, or State  
6 Correctional Institutions.

7 I. A pharmacy may provide pharmacy services to a long-term care facility or hospice licensed  
8 under RSA 151 or to a state correctional institution through the use of an automated pharmacy  
9 system that need not be located at the same location as the pharmacy.

10 II. The board shall adopt rules governing the use of an automated pharmacy system under  
11 this section, not later than January 1, 2022, which shall specify:

- 12 (a) Recordkeeping requirements;  
13 (b) Security requirements; and  
14 (c) Labeling requirements.

15 2 Effective Date. Part II of this act shall take effect 60 days after its passage.

**PART III**

16  
17 Relative to health facilities providing care in the declared emergency.

18 1 New Section; Department of Safety; Homeland Security and Emergency Management; Novel  
19 Coronavirus Disease (COVID-19); Health Facilities. Amend RSA 21-P by inserting after section 42  
20 the following new section:

21 21-P:42-a Novel Coronavirus Disease (COVID-19); Health Facilities. Acute care hospitals,  
22 assisted living facilities, long-term care facilities, nursing facilities, residential care facilities,  
23 ambulatory care clinics (as defined in RSA 151, RSA 151-A, RSA 151-D, RSA 151-E and RSA 151-H),  
24 and any other similar facilities providing care to elderly or infirm patients (“health facilities”), and  
25 the employees, agents and volunteers of such health facilities, are deemed to have been engaged in  
26 preparing for and/or carrying out “emergency management” functions for the purposes of RSA 21-  
27 P:35 when complying, or reasonably attempting to comply, with any executive order, agency order or  
28 rule (including but not limited to waivers from the Centers for Medicare and Medicaid Services  
29 (CMS) both issued as blanket waivers by CMS and as requested by New Hampshire department of  
30 health and human services pertaining to the state of emergency declared under state and/or federal  
31 law in response to the Novel Coronavirus (COVID-19). All such orders and rules are deemed to  
32 constitute orders and/or rules adopted and/or regulations promulgated pursuant to RSA 21-P.  
33 Accordingly, no such organization or person shall be liable for the death of or injury to persons, or for  
34 damage to property, as a result of such compliance or reasonable attempts to comply with such an  
35 emergency order or rule under this section. This section shall not apply to actions of health care  
36 facilities, employees, agents, or volunteers of such facilities that are not related to compliance or

**SB 149-FN - AS AMENDED BY THE HOUSE**

**- Page 3 -**

- 1 reasonable attempts at compliance with an emergency order or rule. This section shall not apply to
- 2 actions performed after such an emergency order or rule is no longer in effect.
- 3       2 Effective Date. Part III of this act shall take effect upon its passage.

**SB 149-FN- FISCAL NOTE**

AS AMENDED BY THE SENATE (AMENDMENTS #2021-0788s and #2021-1055s)

AN ACT adopting omnibus legislation on health and human services.

**Part I Clarifying Medicaid spend-down requirements and requiring a report to the oversight committee on health and human services.**

Part I of the proposed legislation clarifies Medicaid spend-down requirements and requires the Department of Health and Human Services report to the Committee on Health and Human Services. The Department of Health and Human Services states that Part I will have no fiscal impact.

**Part II Relative to automated pharmacy systems.**

**FISCAL IMPACT:**     State                     County                     Local                     None

STATE:	Estimated Increase / Decrease			
	FY 2021	FY 2022	FY 2023	FY 2024
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	Indeterminable	Indeterminable	Indeterminable	Indeterminable
<b>Funding Source:</b>	<input type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input checked="" type="checkbox"/> Other

Part II of the proposed legislation would automate pharmacy systems.

The Office of Professional Licensure states that the fiscal impact of Part II is indeterminable as it is not clear how many automated pharmacy systems will be established. Pharmacy inspectors will have to inspect automated pharmacy systems, taking 45 minutes to an hour to inspect each unit, excluding travel time. The inspector will need to review records concerning replenishment, delivery, discrepancy reports, temperature log review, training, and certification of staff, as well as numerous policies. Additional licensing revenue will not be generated as an additional permit or license is not required by this bill.

**Part III Relative to health facilities providing care in the declared emergency.**

Part III of the proposed legislation provides that acute care hospitals, assisted living facilities, long-term care facilities, and other similar facilities providing care to elderly or infirm patients,

and the employees, agents, and volunteers of such health facilities, are deemed to have been engaged in preparing for and carrying out emergency management functions when taking actions to comply with any executive order, agency order, or rule pertaining to the state of emergency declared under state or federal law in response to the Novel Coronavirus Disease. The Department of Health and Human Services states that Part III will have no fiscal impact.

**AGENCIES CONTACTED:**

Department of Health and Human Services and Office of Professional Licensure and Certification