

HB 479 - AS INTRODUCED

2021 SESSION

21-0567

10/11

HOUSE BILL

**479**

AN ACT                   relative to pharmacist provider status and nicotine cessation therapy.

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

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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 or APRN and to be reimbursed under Medicaid.

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                          Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

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

AN ACT relative to pharmacist provider status and nicotine cessation therapy.

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

1       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 an advanced registered nurse practitioner.

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

9       2   Managed Care Program; Pharmacists Services. Amend RSA 126-A:5, XIX(a) to read as  
10   follows:

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

1 shall emphasize patient-centered, value-based care and include enhanced care management of high-  
2 risk populations as identified by the department. In contracting for the managed care program, the  
3 department shall ensure no reduction in the quality of care of services provided to enrollees in the  
4 managed care model and shall exercise all due diligence to maintain or increase the current level of  
5 quality of care provided. The commissioner may, in consultation with the fiscal committee, adopt  
6 rules, if necessary, to implement the provisions of this paragraph. The department shall seek, with  
7 the approval of the fiscal committee, all necessary and appropriate waivers to implement the  
8 provisions of this paragraph.

9 3 New Paragraph; Pharmacists and Pharmacies; Definitions. Amend RSA 318:1 by inserting  
10 after paragraph XXXIII the following new paragraph:

11 XXXIV "Nicotine cessation therapy" means medications which the United States Food and  
12 Drug Administration (FDA) classifies as available by prescription or without a prescription for the  
13 purpose of nicotine cessation.

14 4 New Section; Pharmacists and Pharmacies; Nicotine Cessation Therapy. Amend RSA 318 by  
15 inserting after section 47-l the following new section:

16 318:47-m Nicotine Cessation Therapy.

17 I. In this section, "standing order" means a written and signed protocol authored by a  
18 physician licensed under RSA 329:12 or an advanced practice registered nurses licensed under RSA  
19 326-B:18. The agreement shall specify a protocol allowing a licensed pharmacist to provide nicotine  
20 cessation therapy under the delegated prescriptive authority of the physician or APRN, a mechanism  
21 to document screening performed and the prescription in the patient's medical record, and include a  
22 plan for evaluating and treating adverse events. The prescriptions shall be considered a legitimate  
23 medical purpose in the usual course of professional practice.

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

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

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

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

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

**HB 479 - AS INTRODUCED**

**- Page 3 -**

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

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

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

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

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

18 5 Effective Date. This act shall take effect January 1, 2022.