

CHAPTER 148
SB 45 - FINAL VERSION

02/11/2021 0167s
3Jun2021... 1253h

2021 SESSION

21-0834
10/05

SENATE BILL **45**

AN ACT relative to the controlled drug prescription health and safety program.

SPONSORS: Sen. Giuda, Dist 2; Sen. Soucy, Dist 18; Sen. Carson, Dist 14; Sen. Prentiss, Dist 5; Rep. M. Pearson, Rock. 34; Rep. Marsh, Carr. 8; Rep. Merchant, Sull. 4

COMMITTEE: Health and Human Services

AMENDED ANALYSIS

This bill modifies requirements for participation in and sharing of information from the controlled drug prescription health and safety program.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 the controlled drug prescription health and safety program.

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

1 148:1 Controlled Drug Prescription Health and Safety Program; Definitions. Amend RSA 318-
2 B:31, IV to read as follows:

3 IV. "Dispenser" means a person or entity who is lawfully authorized to deliver a schedule II-
4 IV controlled substance, but does not include:

5 (a) A licensed hospital pharmacy ***under RSA 318*** that dispenses less than a 48-hour
6 supply of a schedule II-IV controlled substance from a hospital emergency department or that
7 dispenses for administration in the hospital;

8 (b) A practitioner, or other authorized person who administers such a substance;

9 (c) A wholesale distributor of a schedule II-IV controlled substance or its analog;

10 (d) A prescriber who dispenses less than a 48-hour supply of a schedule II-IV controlled
11 substance from a hospital emergency department to a patient; ~~[ø]~~

12 (e) A veterinarian who dispenses less than a 48-hour supply of a schedule II-IV
13 controlled substance to a patient; ***or***

14 ***(f) A practitioner who does not hold or operate under an active Drug***
15 ***Enforcement Agency registration number to prescribe or dispense controlled substances.***

16 148:2 New Paragraph; Controlled Drug Prescription Health and Safety Program; Information.
17 Amend RSA 318-B:32 by inserting after paragraph I the following new paragraph:

18 I-a. The office may enter into agreements or contracts to facilitate the confidential sharing of
19 information relating to the prescribing and dispensing of schedule II-IV controlled substances, by
20 practitioners within the state and to establish secure connections between the program and a
21 practitioner's electronic health record keeping system. An electronic health record keeping system
22 may allow for the query and retrieval of the provider specified, individual's program information for
23 display and retention in the patient's medical information; provided that nothing in this section shall
24 allow the electronic health record keeping system owner or license holder to perform data queries
25 unrelated to individuals under the practitioner's care. The electronic health record keeping system
26 owner or license holder shall be responsible for ensuring that only authorized individuals have
27 access to program information. The program shall record and retain in its database what
28 information was transferred and the identity of the organization who received the information. The
29 program shall include this information when a patient requests a report pursuant to RSA 318-B:35,
30 I(b)(1).

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1 148:3 New Paragraph; Controlled Drug Prescription Health and Safety Program;
2 Confidentiality. Amend RSA 318-B:34 by inserting after paragraph II the following new paragraph:

3 II-a. A practitioner who intends to request and use information from the program about a
4 patient shall post a sign that can be easily viewed by the public that discloses to the public that the
5 practitioner may access and use information contained in the program. In lieu of posting a sign, the
6 practitioner may provide such notice in written material provided to the patient.

7 148:4 Providing Controlled Drug Prescription Health and Safety Information. Amend RSA 318-
8 B:35, I(a)(2) and (3) to read as follows:

9 (2) For reviewing information regarding prescriptions issued or dispensed ***or for***
10 ***conducting medication reconciliation*** by the requester; [~~or~~]

11 (3) For the purpose of investigating the death of an individual; ***or***

12 (4) ***For the purpose of administering RSA 318:29-a, VI, RSA 326-B:36-a, RSA***
13 ***329:13-b, and other participating health professional boards.***

14 148:5 Repeal. RSA 318-B:35, I(b)(5), relative to a practitioner or consultant retained by the
15 office of professional licensure and certification to review certain information, is repealed.

16 148:6 Contingent Version; Controlled Drug Prescription Health and Safety Program;
17 Definitions. Amend RSA 126-A:89, VI to read as follows:

18 VI. "Dispenser" means a person or entity who is lawfully authorized to deliver a schedule II-
19 IV controlled substance, but does not include:

20 (a) A licensed hospital pharmacy ***under RSA 318*** that dispenses less than a 48-hour
21 supply of a schedule II-IV controlled substance from a hospital emergency department or that
22 dispenses for administration in the hospital;

23 (b) A practitioner, or other authorized person who administers such a substance;

24 (c) A wholesale distributor of a schedule II-IV controlled substance or its analog;

25 (d) A prescriber who dispenses less than a 48-hour supply of a schedule II-IV controlled
26 substance from a hospital emergency department to a patient; [~~or~~]

27 (e) A veterinarian who dispenses less than a 48-hour supply of a schedule II-IV
28 controlled substance to a patient; ***or***

29 (f) ***A practitioner who does not hold or operate under an active Drug***
30 ***Enforcement Agency registration number to prescribe or dispense controlled substances.***

31 148:7 Contingent Version; New Paragraph; Controlled Drug Prescription Health and Safety
32 Program; Information. Amend RSA 126-A:90 by inserting after paragraph I the following new
33 paragraph:

34 I-a. The department may enter into agreements or contracts to facilitate the confidential
35 sharing of information relating to the prescribing and dispensing of schedule II-IV controlled
36 substances, by practitioners within the state and to establish secure connections between the
37 program and a practitioner's electronic health record keeping system. An electronic health record

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1 keeping system may allow for the query and retrieval of the provider specified, individual's program
2 information for display and retention in the patient's medical information; provided that nothing in
3 this section shall allow the electronic health record keeping system owner or license holder to
4 perform data queries unrelated to individuals under the practitioner's care. The electronic health
5 record keeping system owner or license holder shall be responsible for ensuring that only authorized
6 individuals have access to program information. The program shall record and retain in its database
7 what information was transferred and the identity of the organization who received the information.
8 The program shall include this information when a patient requests a report pursuant to RSA 126-
9 A:93, I(b)(1).

10 148:8 Contingent Version; New Paragraph; Controlled Drug Prescription Health and Safety
11 Program; Confidentiality. Amend RSA 126-A:92 by inserting after paragraph II the following new
12 paragraph:

13 II-a. A practitioner who intends to request and use information from the program about a
14 patient shall post a sign that can be easily viewed by the public that discloses to the public that the
15 practitioner may access and use information contained in the program. In lieu of posting a sign, the
16 practitioner may provide such notice in written material provided to the patient.

17 148:9 Contingent Version; Providing Controlled Drug Prescription Health and Safety
18 Information. Amend RSA 126-A:93, I(a)(2) and (3) to read as follows:

19 (2) For reviewing information regarding prescriptions issued or dispensed *or for*
20 *conducting medication reconciliation* by the requester; [∅]

21 (3) For the purpose of investigating the death of an individual; *or*

22 (4) *For the purpose of administering RSA 318:29-a, VI, RSA 326-B:36-a, RSA*
23 *329:13-b, and other participating health professional boards.*

24 148:10 Contingent Version; Repeal. RSA 126-A:93, I(b)(4), relative to a practitioner or
25 consultant retained by the department of health and human services to review certain information,
26 is repealed.

27 148:11 Contingency.

28 I. If HB 2-FN-A-L of the 2021 legislative session becomes law and contains provisions
29 transferring the administration of the controlled drug prescription health and safety program from
30 the office of professional licensure and certification under RSA 318-B to the department of health
31 and human services under RSA 126-A, then sections 1-5 of this act shall take effect upon its passage
32 and until July 1, 2021 and then sections 6-10 of this act shall take effect July 1, 2021 at 12:01 a.m.

33 II. If HB 2-FN-A-L of the 2021 legislative session becomes law and does not contain
34 provisions transferring the administration of the controlled drug prescription health and safety
35 program from the office of professional licensure and certification under RSA 318-B to the
36 department of health and human services under RSA 126-A, or if HB 2 FN-A-L does not become law,
37 then sections 6-10 of this act shall not take effect and sections 1-5 of this act shall take effect upon

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1 its passage.

2 148:12 Effective Date.

3 I. Sections 1-10 of this act shall take effect as provided in section 11 of this act.

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

Approved: July 23, 2021

Effective Date:

I. Sections 1-10 shall take effect as provided in section 11.

II. Remainder shall take effect July 23, 2021.