

CHAPTER 260
HB 664-FN – FINAL VERSION

13Mar2013... 0686h
26June2013... 2172CofC
26June2013... 2197EBA

2013 SESSION

13-0508
01/04

HOUSE BILL ***664-FN***

AN ACT relative to the New Hampshire vaccine association.

SPONSORS: Rep. Harding, Graf 13; Rep. Rosenwald, Hills 30; Rep. Schlachman, Rock 18;
Rep. John Hunt, Ches 11; Sen. Odell, Dist 8; Sen. Gilmour, Dist 12;
Sen. Forrester, Dist 2

COMMITTEE: Health, Human Services and Elderly Affairs

ANALYSIS

This bill makes changes to the law governing the New Hampshire Vaccine Association.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to the New Hampshire vaccine association.

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

1 260:1 New Hampshire Vaccine Association; Definitions. RSA 126-Q:1 is repealed and reenacted
2 to read as follows:

3 126-Q:1 Definitions. In this chapter:

4 I. “Assessable coverage” means:

5 (a) Health coverage as defined in RSA 420-G:2, IX;

6 (b) Stop loss coverage that conforms with RSA 415-H:3, or other group excess loss
7 insurance purchased against the risk that any particular claim, or total liability, will exceed a
8 specified dollar amount; or

9 (c) Group health plan, as defined by 42 U.S.C. 300gg-91(a).

10 II. “Assessable entity” means any:

11 (a) Health maintenance organization, as defined by RSA 420-B:1, VI.

12 (b) Third party administrator, as defined by RSA 402-H:1, I.

13 (c) Entity providing administrator services and required to register with the insurance
14 commissioner under RSA 402-H:11-a or RSA 402-H:11-b.

15 (d) Insurance company licensed pursuant to RSA 401:1, IV.

16 (e) Health service corporation, as defined by RSA 420-A:1, III.

17 III. “Assessable lives” means all children under 19 years of age residing in the state who
18 have assessable coverage written or administered by an assessable entity.

19 IV. “Assessment” means the assessable entity’s liability with respect to childhood vaccines
20 determined in accordance with this chapter. For purposes of rate setting and medical loss ratio
21 calculations, all association assessments are considered pharmaceutical or medical benefit costs and
22 not regulatory costs. In the event of any insolvency or similar proceeding affecting any payer,
23 assessments shall be included in the highest priority of obligations to be paid by or on behalf of such
24 payer.

25 V. “Association” means the New Hampshire vaccine association.

26 VI. “Board” means the board of directors of the New Hampshire vaccine association.

27 VII. “Commissioner” means the commissioner of the department of health and human

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1 services.

2 VIII. “Estimated vaccine cost” means the estimated cost to the state over the course of a
3 state fiscal year of the purchase, distribution, and administration of vaccines purchased at the
4 federal discount rate by the department of health and human services.

5 IX. “Provider” means a person licensed by this state to provide health care services to
6 persons or a partnership or corporation made up of those persons.

7 X. “Total non-federal program cost” means the estimated vaccine cost less the amount of
8 federal revenue available to the state for the purchase, distribution, and administration of vaccines.

9 XI. “Vaccine” means any preparations of killed microorganisms, living attenuated
10 organisms, or living fully virulent organisms that are approved by the federal Food and Drug
11 Administration and recommended by the Advisory Committee on Immunization Practices of the
12 Centers for Disease Control and Prevention and have been authorized by the commissioner of the
13 department of health and human services for administration to children of the state of
14 New Hampshire under the age of 19 years for the purposes of producing or artificially increasing
15 immunity to particular life-threatening and disabling diseases.

16 260:2 New Hampshire Vaccine Association; Creation. Amend RSA 126-Q:2 to read as follows:

17 126-Q:2 Creation of Association. There is hereby created a nonprofit corporation to be known as
18 the New Hampshire vaccine association. The association is formed to assess [insurers] **assessable**
19 **entities** for the cost of vaccines provided to certain children in New Hampshire.

20 260:3 New Hampshire Vaccine Association; Powers and Duties. Amend RSA 126-Q:3, I to read
21 as follows:

22 I. The New Hampshire vaccine association shall be comprised of all [~~insurers currently~~
23 ~~writing or maintaining health insurance in New Hampshire~~] **assessable entities**.

24 260:4 New Hampshire Vaccine Association; Powers and Duties. Amend RSA 126-Q:3, III(a) to
25 read as follows:

26 (a) Three representatives selected from the [insurers] **assessable entities** currently
27 writing [~~or~~], maintaining [~~health insurance in New Hampshire and having the most covered lives in~~
28 ~~New Hampshire~~], **or administering assessable coverage through a voting process where votes**
29 **are based on assessable lives. The plan of operation shall provide details for this selection**
30 **process.**

31 260:5 New Hampshire Vaccine Association; Powers and Duties. Amend RSA 126-Q:3, V(e)-(n) to
32 read as follows:

33 (e) On an annual basis, no later than November 1 of each year, establish the amount of
34 the assessment **for the succeeding year.**

35 (f) Enter into contracts as necessary or proper to collect and disburse the assessment.

36 (g) Enter into contracts as necessary or proper to administer the plan of operation.

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1 (h) Sue or be sued, including taking any legal action necessary or proper for the recovery
2 of any assessment for, on behalf of, or against members of the association or other participating
3 person.

4 (i) Appoint from among its directors, committees as necessary to provide technical
5 assistance in the operation of the association, including the hiring of independent consultants as
6 necessary.

7 (j) ~~[Notify, in writing, each insurer of the insurer's assessment by November 15 of each~~
8 ~~year].~~ ***Determine an assessment amount and collect payments from assessed entities in***
9 ***accordance with RSA 126-Q:4.***

10 (k) Submit an annual report to the commissioner of insurance, in a manner and form
11 determined by the commissioner, listing the association membership base, providing a count of
12 ~~[covered]~~ ***assessable*** lives by ~~[member]~~ ***assessable entity***, identifying changes in ~~[association~~
13 ~~membership and covered]~~ ***assessable*** lives ***by assessable entity***, describing the collection of
14 assessments, listing payment delinquencies, and containing such other related information as the
15 commissioner may require.

16 (l) Allow each ~~[insurer]~~ ***assessable entity*** up to ~~[90 days after the notification required~~
17 ~~by subparagraph (j) to remit its assessment or submit an assessment payment plan, subject to~~
18 ~~approval by the association and initial payment under an approved assessment payment plan]~~ ***45***
19 ***days after the closing of each calendar quarter to report its assessable lives and remit its***
20 ***corresponding assessment amount as calculated pursuant to RSA 126-Q:4.***

21 (m) ~~[Deposit annual]~~ ***Collect assessments from assessable entities as calculated***
22 ***under RSA 126-Q:4 and deposit said*** assessments ~~[collected by the association]~~ less the
23 association's administrative costs ***annually and reserves*** with the state treasurer to the credit of
24 the vaccine purchase fund established pursuant to RSA 141-C:17-a. ***At the written request of the***
25 ***association following a majority vote of the board of directors, any funds forwarded to the***
26 ***state treasurer for the vaccine purchase fund remaining unexpended for childhood***
27 ***vaccines, shall promptly be returned to the association.***

28 (n) ***Be authorized to enter into one or more agreements with other applicable***
29 ***authorities in surrounding states to reduce the risk of duplicate assessments and to assure***
30 ***availability of vaccines for children who are residents of this state but who receive***
31 ***vaccination services in other states. Any costs relating to any such agreement shall be***
32 ***considered additional vaccine costs of the program for purposes of determining the***
33 ***association's assessments.***

34 (o) Perform any other functions as may be necessary or proper to carry out the plan of
35 operation.

36 (p) ***Adopt procedures by which affiliated assessable entities calculate their***

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1 *assessment on an aggregate basis and procedures to ensure that no assessable life is*
2 *counted more than once. Unless otherwise determined by the board, the assessable entity*
3 *responsible for the payment of the provider's administrative costs for childhood vaccines*
4 *shall be the entity responsible for reporting assessable lives and payment of the*
5 *corresponding assessment.*

6 260:6 New Hampshire Vaccine Association; Assessment. RSA 126-Q:4 is repealed and reenacted
7 to read as follows:

8 126-Q:4 Assessment Determination.

9 I. The board shall determine an assessment for each assessable entity in accordance with
10 this section. An assessment determination made pursuant to this section is a pharmaceutical cost
11 and not a regulatory cost for purposes of calculating the carrier's medical loss ratio.

12 II. In determining the assessment amount, the board shall:

13 (a) Estimate the total non-federal program cost for the succeeding year;

14 (b) Add its anticipated operating costs for the succeeding year and such additional
15 working capital reserves as may be established by the board from time to time;

16 (c) Add a reserve of up to 10 percent of the anticipated cost under subparagraph (a) for
17 unanticipated costs associated with providing vaccines to children covered; and

18 (d) Subtract the amount of any unexpended assessments collected in the preceding year
19 along with any unexpended interest accrued to the fund during the preceding year.

20 III. The board shall include in its plan of operations, details regarding the timing for
21 assessment collections, and the form and format assessable entities shall use to calculate
22 assessments.

23 IV. The board shall include in its plan of operation details regarding payment due dates,
24 grace periods, late payment fees, interest, and other details regarding the collection of assessments.

25 V. The board may determine an interim assessment for new vaccines or unanticipated
26 shortfalls in the association's ability to meet childhood vaccine funding needs. The board shall
27 calculate the interim assessment in accordance with paragraph II, and the interim assessment is
28 payable the calendar quarter that begins no less than 30 days following the establishment of the
29 federal contract price. The board shall not impose more than one interim assessment per year,
30 except in the case of a public health emergency declared in accordance with state or federal law.

31 VI. In the event that the association discontinues operation for any reason, any unexpended
32 assessments, including unexpended funds from prior assessments in the state vaccine purchase
33 fund, shall be refunded to payees in proportion to the respective assessment payments by payees
34 over the most recent 8 quarters prior to discontinuation of association operations.

35 260:7 New Hampshire Vaccine Association; Powers and Duties. Amend RSA 126-Q:5 to read as
36 follows:

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1 126-Q:5 Powers and Duties. In addition to the duties and powers enumerated elsewhere in this
2 chapter:

3 I. The commissioner of insurance shall ~~[fine any insurer that fails to pay an assessment~~
4 ~~within 6 months of notification under RSA 126-Q:3, V(j)]. The fine shall be at least \$5,000 and no~~
5 ~~more than 125 percent of the amount of the delinquent assessment. Fines so levied shall be~~
6 ~~deposited with the state treasurer to the credit of the vaccine purchase fund established pursuant to~~
7 ~~RSA 141-C:17-a], *after notice from the association, issue a show cause order to any*~~
8 ~~*assessable entity that fails to comply with the association’s plan of operation. In addition*~~
9 ~~*to late fees and other penalties imposed by the association, assessable entities may, after a*~~
10 ~~*finding of just cause, be subject to a minimum fine of \$5,000, a maximum fine of 25 percent*~~
11 ~~*of the total amount of delinquent assessments, and licensure suspension.*~~

12 I-a. The insurance commissioner shall annually review the **assessment** report required
13 under RSA 126-Q:3, V(k) ~~[on association membership, covered lives, and the payment of~~
14 ~~assessments] to ensure that all [insurers that should be members of the association] **assessable**~~
15 ~~**entities** are participating in the association and that all [association members] **assessable entities**~~
16 ~~have accurately reported [covered] **assessable** lives [and paid the proper assessment]. The~~
17 ~~association shall remedy any problem identified by the commissioner with respect to [membership in~~
18 ~~the association, reporting of covered lives, or payment of the assessment] **assessable entities and**~~
19 ~~**assessable lives.**~~

20 II. The commissioner and the commissioner of insurance may adopt rules, pursuant to
21 RSA 541-A, as necessary to carry out the purposes of this chapter.

22 260:8 Effective Date. This act shall take effect upon its passage.

23
24 Approved: July 24, 2013

25 Effective Date: July 24, 2013