

Rep. Marsh, Carr. 8  
Rep. M. Pearson, Rock. 34  
January 28, 2021  
2021-0161h  
04/05

Amendment to HB 187

Amend the title of the bill by replacing it with the following:

AN ACT                relative to the emergency powers of the commissioner of health and human services and relative to the membership of the oversight committee on health and human services.

Amend RSA 21-P:53, VIII as inserted by section 1 of the bill by replacing it with the following:

***VIII. Except as provided in paragraph IX, an emergency order issued under this section shall be subject to review by the joint legislative oversight committee on health and human services, established in RSA 126-A:13, and may be rescinded by a 2/3 vote of that committee. The commissioner shall notify the ethics oversight advisory committee established in RSA 141-C:27 of any emergency order issued under this section, and the joint legislative oversight committee shall consider the input of the ethics committee, if provided, in any decision. If the emergency precludes either committee from meeting in person, they shall be authorized, notwithstanding any other provision of law, to meet remotely for this purpose.***

Amend RSA 21-P:53 as inserted by section 1 of the bill by inserting after paragraph VIII the following new paragraph:

***IX. An emergency order issued under paragraph V or VI shall be subject to legislative oversight by the ethics oversight advisory committee pursuant to RSA 141-C:27, II(b).***

Amend the bill by replacing all after section 1 with the following:

2 Communicable Disease; Ethics Committee. Amend RSA 141-C:27 to read as follows:

141-C:27 Ethics ***Oversight Advisory*** Committee.

I. There is hereby established an ethics ***oversight advisory*** committee to offer advice to the commissioner relative to the ethical issues that may be identified in the course of planning for, and responding to, outbreaks of communicable disease that threaten to become epidemic or pandemic

1 *and to review and provide recommendations for investigations, orders, and treatment*  
2 *ordered by the commissioner.*

3 II. The committee shall:

4 (a) Consider the ethical implications of any of the powers that may be exercised by the  
5 commissioner under the provisions of this chapter including, but not limited to, the confiscation,  
6 distribution, and rationing of anti-toxins, serums, vaccines, immunizing agents, antibiotics, and  
7 other pharmaceutical agents, and mechanical equipment; the issuance and enforcement of orders of  
8 isolation, quarantine, medical examination, and medical treatment; issues relative to information  
9 sharing and confidentiality; and the provisions for due process for orders issued pursuant to this  
10 chapter.

11 (b) *Review, at least annually, a report of investigations conducted pursuant to*  
12 *RSA 141-C:9 and orders issued under RSA 21-P:53, V and VI, and provide recommendations*  
13 *to the department. Any information furnished to the committee shall be aggregated and*  
14 *de-identified. The department shall not share any confidential information with the*  
15 *committee.*

16 (c) *Consider the competing rights of disabled persons who might be unable to*  
17 *comply with certain orders, health care workers who are entitled to a safe workplace, and*  
18 *the need to protect the public from communicable disease, and may recommend*  
19 *modification of orders to address specific concerns.*

20 (d) *Consider both the need to protect the most vulnerable members of society as*  
21 *well as the need for the most efficacious means to control a public health emergency when*  
22 *consulting with the commissioner pursuant to RSA 21-P:53, III-b in developing a plan for*  
23 *the distribution of a new treatment or vaccination.*

24 III. The members of the committee shall be as follows:

25 (a) *Two members of the house or representatives, one of whom shall be from the*  
26 *minority party, appointed by the speaker of the house of representatives.*

27 (b) *One member of the senate, appointed by the senate president.*

28 (c) The director of the *department of health and human services*, division of public  
29 health services.

30 ~~[(b)]~~ (d) The state epidemiologist.

31 ~~[(e)]~~ (e) The attorney general, or designee.

32 ~~[(d)]~~ (f) A representative of a public health network, appointed by the commissioner.

33 ~~[(e)]~~ (g) A representative from a college or university public health program, appointed  
34 by the commissioner.

35 ~~[(f)] A chief of police or a police officer of a local police department, appointed by the New~~  
36 ~~Hampshire Association of Chiefs of Police.~~

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1 ~~\_\_\_\_\_ (g) A chief of a local fire department, appointed by the New Hampshire Association~~  
2 ~~of Fire Chiefs.]~~

3 (h) A physician, licensed under RSA 329, appointed by the New Hampshire Medical  
4 Society.

5 (i) The commissioner of the department of safety, or designee.

6 (j) ~~[A member of a fire department with a minimum of EMT-B certification, appointed by~~  
7 ~~the Professional Firefighters of New Hampshire.~~

8 ~~(k)]~~ A representative of a hospital, appointed by the New Hampshire Hospital  
9 Association.

10 ~~[(l) A county representative, appointed by the New Hampshire Association of Counties.]~~

11 **(k) A representative of the Disability Rights Center of New Hampshire,**  
12 **appointed by the center.**

13 **(l) The commissioner of the department of labor, or designee.**

14 IV. ~~[The commissioner shall appoint a member of the committee to act as chairperson.]~~ **The**  
15 **committee shall elect one of the legislative members as chairperson. Legislative members**  
16 **of the committee shall receive mileage at the legislative rate when attending to the duties**  
17 **of the committee.** The committee shall meet initially within 30 days of the effective date of this  
18 section and then as regularly as the chairperson shall direct.

19 V. The commissioner may at any time direct questions to the committee or request guidance  
20 on ethical issues.

21 VI. The committee ~~[shall be solely advisory in nature and any guidance, guidelines, or~~  
22 ~~protocols issued by the committee shall not be binding on the commissioner]~~ **may provide advisory**  
23 **opinions, including draft guidance, guidelines, or protocols, which shall not be binding on**  
24 **the commissioner or any member of the public.**

25 3 Department of Health and Human Services; Oversight Committee. Amend RSA 126-A:13, I to  
26 read as follows:

27 I. There shall be an oversight committee on health and human services consisting of [5] **the**  
28 **following** members ~~[as follows]:~~

29 (a) Two members of the senate, at least one of whom shall be a member of the senate  
30 health and human services committee and one of whom shall be a member of the senate finance  
31 committee, appointed by the president of the senate~~[-and].~~

32 (b)(1) ~~[Three]~~ **Five** members of the house of representatives, [2] **3** of whom shall be from  
33 the health, human services and elderly affairs committee, and one of whom shall be from the house  
34 finance committee **division responsible for the department of health and human services,**  
35 appointed by the speaker of the house of representatives.

36 **(2) Two members of the house of representatives, one of whom shall be**  
37 **appointed by the speaker of the house of representatives, and one of whom shall be**

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1 *appointed by the leader of the minority party of the house of representatives, shall be*  
2 *available to serve, at the request of the committee chairperson, as an alternate member for*  
3 *an absent committee member. An alternate member shall have full voting authority while*  
4 *serving for an absent committee member.*

5 4 Effective Date. This act shall take effect upon its passage.

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AMENDED ANALYSIS

This bill makes various changes to the powers of the commissioner of the department of health and human services during a public health emergency; authorizes the joint legislative oversight committee on health and human services to review, and rescind by a 2/3 vote, emergency orders issued by the commissioner; gives a person subject to a treatment order for a communicable disease a right to a hearing on the order; and amends the membership and duties of the ethics oversight advisory committee. The bill also amends the house membership on the health and human services oversight committee.