Section 1 Header

2015 SESSION

11/09

SPECIAL SESSION BILL

AN ACT relative to legislation focused upon substance abuse.

SPONSORS:

ANALYSIS

This bill:

1. Specifically defines and includes Fentanyl as a drug for which there are criminal penalties associated with possessing, transporting, selling or distribution.

2. Establishes a uniform standard for insurers to utilize to reimburse for substance abuse/behavioral health treatment services and allows immediate care for substance abuse by eliminating the requirement of prior authorization for the first two provider visits and first 72 hours of in-patient care.

3. Establishes a Statewide Drug Court Office supervised by the Judicial Branch. This program is based on a nationally recognized drug court model. Drug courts are a judicially supervised, multi-discipline approach that seeks to identify appropriate participants through a structured assessment who would otherwise be sentenced to jail or prison and place them in treatment. The goals of drug court include a reduction in recidivism, enhanced community safety, providing treatment for addicted individuals who would be sentenced to jail or prison, restoring families, reducing substance abuse within the community and saving taxpayer dollars.

4. Establishes a state grant program to assist state and local law enforcement agencies in addressing the opioid crisis. The purposes of this dedicated fund is to enable and support coordinated law enforcement efforts among the state, county and local levels to reduce the number of opioid-related overdoses and deaths; to enable and support coordination between uniformed law enforcement officers and undercover drug enforcement units; and to improve the collection, analysis and dissemination of criminal intelligence information and data in furtherance of such efforts.

5. Appropriates additional funding for the Governor's Commission on Alcohol and Drug Abuse Prevention, Treatment and Recovery.

6. Appropriates additional funding for the Department of Corrections for salary expenses for six new probation and parole officer II positions to be deployed to work with state police and local departments in high-need areas of the state and for matching grants to counties for adult drug courts.

7. Appropriates additional funding for New Hampshire's Prescription Drug Monitoring Program to enhance capability of mandatory requirements.

8. Appropriates additional funding for the New Hampshire Department of Justice for an attorney position dedicated to prosecution of drug cases.

9. Appropriates additional funding for the purpose of statewide coordination and administration of adult drug courts in each county of the state.

Section 1 Header

10. Amends the Prescription Drug Monitoring Program statute by striking language limiting funding to grants, gifts and contributions and would allow the program to accept non-federal funds and amends current language to allow PDMP access to federal healthcare providers working in New Hampshire and Vermont, and the Medical Examiner's Office to assist in determining time of death and cause of death.

11. Adds two physicians to the medical review subcommittee of the Board of Medicine to assist with the review of complaints filed against licensees. One of the new members would be a pain specialist.

12. Limits a prescription for controlled drugs of schedules II or III to no more than a 34-day supply or 100 dosage units, whichever is less.

13. Requires the board of medicine, the board of dental examiners, the board of nursing, the board of registration in optometry, the board of podiatry, the naturopathic board of examiners, and the board of veterinary medicine to adopt rules for prescribing controlled drugs. This bill contains mandatory standards for such rules and requires using the controlled drug prescription health and safety program database.

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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.

11/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fifteen

AN ACT relative to legislation focused upon substance abuse.

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

1 New Paragraph; Controlled Drug Act. Amend RSA 318-B:1 by inserting after paragraph XI the following new paragraph:

XII. The term "Fentanyl class drug" shall encompass the following drugs: fentanyl, 3-methylfentanyl, 3-methylthiofentanyl, acetylfentanyl, acetyl-alpha methylfentanyl, alpha-methylfentanyl, alpha-methylthiofentanyl, benzylfentanyl, beta-hydroxy-3- methylfentanyl, betahydroxyfentanyl, para-fluorofentanyl, thiofentanyl, alfentanil, carfentanil, remifentanil, sufentanil, and all optical, positional, and geometric isomers of these substances. Drugs which become controlled after September 1, 2015, pursuant to NH RSA 318:B-1-a; and are known or scheduled with a common name that includes the term "fentanyl" or "fentanil" shall also be considered as belonging to this class, along with optical, positional, and geometric isomers of same. Drugs may be added or removed from this classification by action of the Legislature.

2 New Paragraph; Penalties. Amend RSA 318-B:26, I(a)(3) to read as follows:

(3) Heroin or its analog, crack cocaine, ***or a fentanyl class drug*** in a quantity of 5 grams or more, including any adulterants or dilutants.

3 New Paragraph; Penalties. Amend RSA 318-B:26, I(b)(4) to read as follows:

(4) Heroin or its analog, crack cocaine ***or a fentanyl class drug*** in a quantity of one gram or more, including any adulterants or dilutants;

4 New Paragraph; Penalties. Amend RSA 318-B:26, I(c)(4) to read as follows:

(4) Heroin or its analog, crack cocaine ***or a fentanyl class drug*** in a quantity of one gram or more, including any adulterants or dilutants;

5 New Section; Managed Care Law. Amend RSA 420-J by inserting after section 14 the following new sections:

420-J:15 Definitions. – In this subdivision:

I. "ASAM criteria" means the latest edition of the Treatment Criteria for Addictive, Substance-Related, and Co-Occurring Conditions, developed by the American Society of Addiction Medicine.

II. "Substance use disorder services" means health care services that are provided to a covered person as treatment for an addictive substance-related condition, not including treatment for

any condition related to tobacco use.

420-J:16 Determination of Medical Necessity; Attestation.

I. Whenever substance use disorder services are a covered benefit under a health benefit plan subject to this chapter, the health carrier providing such benefits shall use the ASAM criteria as the minimum standard for determining the medical necessity for such services.

II. On January 1 of each year, each health carrier that provides coverage for substance use disorder services shall file with the commissioner an annual attestation of compliance with this subdivision, including an attestation by its medical director that the carrier is using the most current edition of the ASAM criteria.

420-J:17 Treatment Plan. A health carrier may require submission of a treatment plan, including the frequency and duration of treatment, signed by the primary care provider or other appropriately credentialed treating specialist, that the treatment is medically necessary for treatment of the patient's substance use disorder and is consistent with the ASAM criteria. A health carrier may require an updated treatment plan no more frequently than on a semi-annual basis.

420-J:18 Prior Authorization. Whenever substance use disorder services are a covered benefit under a health benefit plan subject to this chapter, no prior authorization shall be required for the first two visits of an episode of care by an individual for assessment and care with respect to a substance use disorder, or for the first 48 hours of inpatient treatment for emergency substance use disorder services, provided that the licensed clinician or licensed facility shall provide the carrier notification of admission within 48 hours of the admission. With respect to the initial 72 hours of treatment following admission, medical necessity shall be determined by the treating licensed clinician using ASAM criteria as the minimum standard necessary for determining medical necessity

6 New Section; Implementation of Drug Courts. Amend RSA 490-G by inserting after section G:2 the following new section:

RSA 490-G:3 Implementation of Statewide Drug Court Office

I. There is hereby established an Office of Drug Court Coordinator within the Administrative Office of the Superior Court. For purposes of this title, "the Office" shall refer to the Office of Drug Court Coordinator. The Office shall be responsible for developing an application process by which counties shall apply for a state grant, evaluating the operating drug courts, determining certification, measuring recidivism rates, evaluating compliance with National Standards, assisting in creating drug courts in counties seeking to implement a drug court, and assisting counties in obtaining on-going training for drug court teams.

II. Counties that have established, or seek to establish an adult drug court program may be eligible for a state grant to pay up to 50% of the cost of the drug court. The remaining cost will be funded by the counties.

III. The Superior courts shall be grouped into three categories, small, medium and large. Coos, Carroll and Sullivan County Superior Courts will be categorized as small. Grafton, Belknap

and Cheshire County Superior Courts will be categorized as a medium sized drug court. Hillsborough County Superior Court North, Hillsborough County Superior Court South, Merrimack, Strafford and Rockingham County Superior courts will all be categorized as large. Large courts will be eligible for a grant up to $245,000 per year; Medium sized courts will be eligible for a grant up to $150,000 per year; and small sized courts will be eligible for a grant up to $100,000 per year.

A. To be eligible for state funds a county with a currently operating drug court must receive certification from the Office. The Office shall determine how often certification shall be required and the Office will award certification when the currently operating drug court establishes:

1. Compliance with the 10 Key Components of Adult drug court and the Adult Drug Court Best Practice Standards as issued by the National Association of Drug Court Professionals (NADCP);

(a) compliance with the New Hampshire Drug Court Certification Checklist as promulgated by the Office; and

(b) commitment on behalf of the county.

B. Counties seeking to implement a drug court at the time of the effective date of the statute shall work with the Office to take all reasonable steps to apply for eligible federal grants. In the event the County is awarded a federal or any other non-profit grant designed to fund drug court, the county drug court shall be eligible for a state grant once the federal or other non-profit grant has expired.

1. Counties seeking to implement a drug court shall:

(a). submit a budget to the Office;

(b). submit Policies and Procedures and a Participant Handbook which may be

(c). created from templates available through the Office; obtain and complete drug court training as approved by the Office; and

(d). demonstrate a commitment on behalf of the county.

If the Office approves the county's budget, Policies and Procedures, and the Participant Handbook and certifies that the appropriate training has been completed and that the county has demonstrated the necessary commitment, the county shall receive a grant for up to 50% of the approved budget for one year but not to exceed the total amount set forth in statute.

2. To receive funding for subsequent years, the county shall obtain certification from the Office. The Office shall determine how often certification shall be required. The Office shall grant certification if the county establishes:

(a). compliance with the 10 Key Components and Adult Drug Court Best Practice Standards from the Office;

(b). compliance with the New Hampshire Drug Court Certification Checklist as promulgated by the Office; and.

(c). continued commitment on behalf of the county.

C. There is established an advisory commission to make recommendations on renewal of the drug court grant program. The members are as follows:

1. One member of the house of representatives, appointed by the speaker of the house of representatives;

2. One member of the senate, appointed by the president of the senate;

3. One member of the public, appointed by the Governor;

4. Chief Justice, New Hampshire Superior Court, or designee;

5. The Commissioner of the Department of Corrections, or designee;

6. The Commissioner of Health and Human Services, or designee;

7. One member appointed by the New Hampshire Association of Counties;

8. President of Association of New Hampshire Association of Chiefs of Police, or Designee;

9. One member of the Interbranch Criminal and Juvenile Justice Council (ICJJC) appointed by the Chair;

10. On Probation/ Parole Officer, appointed by the Commissioner of the Department of Corrections;

11. One Drug Court Case Manager, appointed by the Office of Drug Court Coordinator.

D. The Senator shall call the first meeting. Meetings shall be held at least twice a year.

E. A quorum will consist of 5 members

F. The commission shall work with the Office based on their evaluations of the operating drug courts, recidivism rates, compliance with National Standards and training as required and recommend whether or not the drug court grant program shall be continued.

7 New Section; Department of Safety; Substance Abuse Enforcement Fund; Amend RSA 21-P by inserting after section 65 the following new section:

21-P:66 Purpose and Intent.

The intent of this subdivision is to fund focused efforts to combat the unprecedented rise in opioid-related overdoses and deaths in the State of New Hampshire. The purposes of this dedicated fund are to enable and support coordinated law enforcement efforts among the state, county and local levels to reduce the number of opioid-related overdoses and deaths; to enable and support coordination between uniformed law enforcement officers and undercover drug enforcement units; and to improve the collection, analysis and dissemination of criminal intelligence information and data in furtherance of such efforts.

8 New Section; Department of Safety; Substance Abuse Enforcement Fund. Amend RSA 21-P by inserting after section 66 the following new section:

21-P:67 The Substance Abuse Enforcement Fund.

I. There is hereby established the substance abuse enforcement fund. This fund shall be used to support coordinated law enforcement activities in furtherance of the purposes of the fund, including but not limited to:

(a) New Hampshire state police personnel, equipment and other costs when working in conjunction with county and local law enforcement in localities experiencing high volume of substance abuse related activities;

(b) Department of safety personnel, equipment and other costs to increase the capacity and efficiency of the state crime laboratory in processing evidence in opioid-related cases; and

(c) Grants to county and local law enforcement for overtime personnel costs in localities experiencing high volume of substance abuse related activities.

II. The substance abuse enforcement fund shall be a nonlapsing fund administered by the commissioner of the department of safety. The fund shall consist of an initial appropriation of $2,000,000, and the commissioner may also accept and expend gifts, grants and donations from any state or federal source for deposit into the fund (or public sector and private sector). The fund shall be continually appropriated and expended at the discretion of the commissioner of the department of safety, in furtherance of the purposes of the fund. The commissioner shall create an accounting unit and expenditure classes for the fund as the commissioner deems necessary and appropriate to effectuate the purposes of the fund. Notwithstanding the provisions of RSA 9:16-a and the provisions of Chapter 276, section 198, laws of 2015, the commissioner is authorized to transfer funds within and among all expenditure classes so created, in furtherance of the purposes of the fund.

9 New Section; Department of Safety; Substance Abuse Enforcement Fund. Amend RSA 21-P by inserting after section 67 the following new section:

21-P:68 Rulemaking.

The commissioner of safety shall adopt rules to implement this subdivision. Notwithstanding any other provisions of law, such rules shall be exempt from the provisions of RSA 541-A.

10 New Subparagraph; Administrative Procedures Act; Exceptions. Amend RSA 541-A:21, I by inserting after subparagraph (hh) the following new subparagraph:

(ii) RSA 21-P:68, relative to the substance abuse enforcement fund.

11 New Sub-subparagraph; State Treasurer and State Accounts; State Treasurer; Application of Receipts; Substance Abuse Enforcement Fund. Amend RSA 6:12, I(b) by inserting after subparagraph (330) the following new sub-subparagraph:

(331) Moneys deposited in the substance abuse enforcement fund established under RSA 21-P:67.

12 New Section. Department of Health and Human Services; Appropriation for Governor's Commission on Alcohol and Drug Abuse Prevention, Treatment, and Recovery.

I. In addition to any other sums appropriated for fiscal years 2016 and 2017, the sum of

$2,000,000 for the fiscal year ending June 30, 2016 and $3,000,000 for the fiscal year ending June 30, 2017 are hereby appropriated to the Governor's Commission on Alcohol and Drug Abuse Prevention, Treatment, and Recovery, within the department of health and human services. These appropriations shall not lapse until June 30, 2017 and shall be a charge against fund specified as follows:

05 Health and Human Services
95 Department of Health and Human Services
4900 Division of Community Based Care Services
491510 Bureau of Drug and Alcohol Services

2989 Governor Commission Funds	Fiscal Year 2016	Fiscal Year 2017
102 Contracts for Program Services	$2,000,000	$3,000,000
TOTAL:	$2,000,000	$3,000,000
Estimated Source of Funds		
General Funds	$2,000,000	$3,000,000
TOTAL:	$2,000,000	$3,000,000

13 New Section. Department of Corrections; Appropriation for Probation and Parole Officers and Drug Court Grants.

I. In addition to any other sums appropriated for fiscal years 2016 and 2017, the sum of $1,213,638 for the fiscal year ending June 30, 2016 and $2,161,144 for the fiscal year ending June 30, 2017 are hereby appropriated to the department of corrections for six new probation and parole officer II positions to be deployed to work with state police and local departments in high-need areas of the state and for matching grants to counties for adult drug courts. These appropriations shall not lapse until June 30, 2017 and shall be a charge against funds specified as follows:

02 Administration of Justice and Public Protection
46 Department of Corrections
4600 Department of Corrections
464010 Division of Field Services

8302 District Offices	Fiscal Year 2016	Fiscal Year 2017
010 Personal Services-Perm. Classified	$149,898	$312,042
030 Equipment	$21,600	$0
060 Benefits	$91,140	$192,102
070 In-state Travel	$11,000	$22,000
102 Contracts for Program Services	$940,000	$1,635,000
TOTAL:	$1,213,638	$2,161,144
Estimated Source of Funds		
General Funds	$1,213,638	$2,161,144
TOTAL:	$1,213,638	$2,161,144

NewSection. Office of Professional Licensure and Certification; Appropriation for Prescription Drug Monitoring Program.

I. In addition to any other sums appropriated for fiscal year 2016, the sum of $100,000 for the fiscal year ending June 30, 2016 is hereby appropriated to the Office of Professional Licensure and Certification for the purpose of making enhancements to the Prescription Drug Monitoring Program software, to allow for mandatory reporting requirements. This appropriation shall not lapse until June 30, 2017 and shall be a charge against funds specified as follows

01 General Government	
21 Office of Professional Licensure and Certification	
2100 Office of Professional Licensure and Certification	
215010 Division of Health Professions	
2406 Medical Professions	Fiscal Year 2016
102 Contracts for Program Services	$100,000
TOTAL:	$100,000
Estimated Source of Funds	
General Funds	$100,000
TOTAL:	$100,000

15 New Section. Department of Justice; Appropriation for Attorney Position.

I. In addition to any other sums appropriated for fiscal years 2016 and 2017, the sum of $210,066 for the fiscal year ending June 30, 2016 and $333,316 for the fiscal year ending June 30, 2017 are hereby appropriated to the Judicial Branch for the purpose of statewide coordination and administration of adult drug courts in each county of the state. These appropriations shall not lapse until June 30, 2017 and shall be a charge against funds specified as follows:

02 Administration of Justice and Public Protection		
20 Department of Justice		
2000 Department of Justice		
200510 Division of Public Protection		
2610 Criminal Justice	Fiscal Year 2016	Fiscal Year 2017
020 Current Expenses	$250	$500
030 Equipment	$750	$0
037 Technology Hardware	$1,000	$0
038 Technology Software	$1,200	$150
039 Telecommunications	$35	$70
059 Salary-Full Time Temp	$27,019	$70,250
060 Benefits	$11,933	$31,022
070 In-State Travel	$400	$1,000
080 Out of State Travel	$700	$1,500

TOTAL:	$43,287	$104,492
Estimated Source of Funds		
General Funds	$43,287	$104,492
TOTAL:	$43,287	$104,492

16 New Section. Judicial Branch; Appropriation for Statewide Drug Court Office.

I. In addition to any other sums appropriated for fiscal years 2016 and 2017, the sum of $210,066 for the fiscal year ending June 30, 2016 and $333,316 for the fiscal year ending June 30, 2017 are hereby appropriated to the Judicial Branch for the purpose of statewide coordination and administration of adult drug courts in each county of the state. These appropriations shall not lapse until June 30, 2017 and shall be a charge against funds specified as follows:

02 Administration of Justice and Public Protection
10 Judicial Branch
1000 Judicial Branch
100010 Supreme Court

New AU Statewide Drug Court Office	Fiscal Year 2016	Fiscal Year 2017
010 Personal Services-Perm. Classified	$108,381	$184,124
020 Current Expenses	$1,754	$1,000
030 Equipment	$9,500	$0
060 Benefits	$65,428	$123,189
066 Training	$10,000	$20,000
070 In-State Travel	$2,501	$5,003
TOTAL:	$197,564	$333,316
Estimated Source of Funds		
General Funds	$197,564	$333,316
TOTAL:	$197,564	$333,316

17 New Paragraph; Controlled Drug Prescription Health and Safety Program Established. Amend RSA 318:B-32 to read as follows:

I. The board shall design, establish, and contract with a third party for the implementation and operation of an electronic system to facilitate the confidential sharing of information relating to the prescribing and dispensing of schedule II-IV controlled substances, by prescribers and dispensers within the state.

II.[~~All costs incurred by the board for the implementation and operation of the program shall be supported through grants, gifts, or user contributions.~~] The board may charge a fee to individuals who request their own prescription information. The amount charged for an individual's request for his or her prescription information shall not exceed the actual cost of providing that information.

~~[III. There shall be no state general funds appropriated for the implementation or operation of the~~

~~program.]~~

~~IV~~***III***. Prescription information relating to any individual, which information does not meet the level established to suggest possible drug abuse or diversion shall be deleted within 6 months after the initial prescription was dispensed. All other information shall be deleted after 3 years.

18 New Paragraph; Controlled Drug Prescription Health and Safety Program Operation. Amend RSA 318:B-33 to read as follows:

II-a. Only registered prescribers**, [**~~ and]~~dispensers, the ***New Hampshire Medical Examiner, and federal health prescribers and dispensers working in federal facilities located in New Hampshire and Vermont*** shall be eligible to access the program.

19 New Paragraph; Disciplinary Action; Remedial Proceedings. Amend RSA 329:17, V-a to read as follows:

V-a. A medical review subcommittee of [~~11~~] ***13*** members shall be nominated by the board of medicine and appointed by the governor and council. The subcommittee shall consist of one member of the board of medicine and [~~10~~] ***12*** other persons, 3 of whom shall be public members, one of whom shall be a physician assistant, and [~~6~~] ***8*** of whom shall be physicians. ***One of the physician members shall practice in the area of pain medicine or anesthesiology.*** Any public member of the subcommittee shall be a person who is not, and never was, a member of the medical profession or the spouse of any such person, and who does not have, and never has had, a material financial interest in either the provision of medical services or an activity directly related to medicine, including the representation of the board or profession for a fee at any time during the 5 years preceding appointment. The terms of the public members shall be staggered so that no 2 public members' terms expire in the same year. The subcommittee members shall be appointed for 3-year terms, and shall serve no more than 2 terms. Upon referral by the board, the subcommittee shall review disciplinary actions reported to the board under paragraphs II-V of this section, except that matters concerning a medical director involved in a current internal or external grievance pursuant to RSA 420-J shall not be reviewed until the grievance process has been completed. Following review of each case, the subcommittee shall make recommendations to the board. Funds shall be appropriated from the general fund for use by the subcommittee to investigate allegations under paragraphs I-V of this section. The board shall employ a physician as a medical review subcommittee investigator who shall serve at the pleasure of the board. The salary of the medical review subcommittee investigator shall be established by RSA 94:1-a.

20 New Paragraph; Sale by Pharmacists. Amend RSA 318-B:9, IV to read as follows:

IV. No prescription shall be filled for more than a 34-day supply ***or 100 dosage units, whichever is less,*** upon any single filling for controlled drugs of schedules II or III; provided, however, that for controlled drugs, in schedules II or III, that are commercially packaged for dispensing directly to the patient, such as metered sprays and inhalers, liquids packaged in

bottles
with calibrated droppers, and certain topical preparations packaged with metered dispensing pumps may be filled for greater than a 34-day supply, but not more than 60 days, utilizing the smallest available product size, in order to maintain the dosing integrity of the commercially packaged containers; and, provided that with regard to amphetamines and methylphenidate hydrochloride, a prescription may be filled for up to a 60-day supply if either such prescription specifies it is being used for the treatment of attention deficit disorder, attention deficit disorder with hyperactivity, or narcolepsy.

21 New Section; Rulemaking for Prescribing Controlled Drugs; Controlled Drug Prescription Health and Safety Program. Amend RSA 318-B by inserting after section 38 the following New section:

318-B:39 Rulemaking for Prescribing Controlled Drugs; Use of Program Database.

I.(a) Before April 1, 2016, the following boards shall submit to the joint legislative committee on administrative rules, final proposed rules for prescribing controlled substances, specifically opioids, for the management or treatment of pain:

(1) The board of medicine, concerning physicians, including psychiatrists, and physician assistants.

(2) The board of dental examiners, concerning dentists.

(3) The board of nursing, concerning advanced practice registered nurses.

(4) The board of registration in optometry, concerning optometrists.

(5) The board of registration in podiatry, concerning podiatrists.

(6) The naturopathic board of examiners, concerning naturopaths.

(b) The rules required under paragraph I shall, at a minimum, contain mandatory standards for the practice components established in paragraph II.

II. The rules shall, at a minimum, contain mandatory standards for the following practice components:

(a) Conducting and documenting a complete patient evaluation and risk assessment to determine whether a patient is an appropriate candidate for a controlled substance prescription for the management or treatment of pain. A complete patient evaluation shall include the completion of an assessment of the pain or anticipated pain in the case of prescribing opioids in advance of a surgical procedure, a physical examination, and a detailed medical and substance abuse history. A risk assessment shall include the use of a screening tool to assess the patient's risk of opioid abuse, misuse, or addiction as low, moderate, or high. A patient may be prescribed a controlled substance for the treatment or management of chronic pain only when:

(1) Other physical, behavioral, and non-opioid medication measures have not resolved the patient's pain or, in the professional judgment of the prescriber, will not resolve the patient's pain;

(2) The potential benefits of opioid therapy are likely to outweigh the potential harm associated with it; and

(3) There is no contraindication to the use of a controlled substance for pain.

(b) Using the program database when writing an initial controlled substance prescription for the management or treatment of a patient's pain and then periodically as circumstances, such as aberrant drug behavior, dictate.

(c) Limiting prescriptions for the management or treatment of pain based on the patient evaluation, risk assessment, review of the program database, and other circumstances history and the physical examination, diagnostic, therapeutic and laboratory results, evaluations and any consultations, treatment objectives, discussion of risks and benefits of the opioid prescriptions, informed consent of the patient, treatments, medications, including date, type, dosage and quantity prescribed, instructions and agreements, and details regarding any periodic reviews deemed appropriate. Limitations shall include, but not be limited to:

(1) Allowing no more than a 5-day controlled substance prescription for the management or treatment of pain in an emergency department or urgent care setting;

(2) Only prescribing long-acting opioids for acute pain after the use of short-acting opioids has been attempted or considered; and

(3) Prescribing at the lowest possible effective dosage and titrating slowly.

(d) Documenting informed consent such that the risks and potential benefits associated with the use of controlled substances for the management or treatment of pain are explained to, and understood by the patient.

(e) Documenting controlled substance treatment agreements for treatment or management of chronic pain patients. Such agreements shall include, at a minimum, the patient's agreement to provide samples for drug screening upon request and to take medications at the dose and frequency prescribed, conduct that triggers the discontinuation or tapering of opioid prescriptions, and a requirement that all chronic pain management prescriptions are provided by a single practice and dispensed by a single pharmacy, if possible.

(f) Periodically reviewing patients being prescribed controlled substances for the management or treatment of chronic pain to ascertain compliance with treatment agreements and whether a change to, or discontinuance of, controlled substance therapy is warranted. Periodic reviews, which are conducted at reasonable intervals based on the patient's risk level of substance abuse, misuse, or addiction shall include, at a minimum, a documented:

(1) Evaluation of the patient;

(2) Assessment of progress or lack of progress in the relieving of pain in light of treatment objectives; and

(3) Assessment of the review of the program database and drug screen results. Tapering or weaning a pain patient off controlled substances, or discontinuing certain prescriptions

altogether, occurs when the patient engages in aberrant drug behaviors, experiences no progress toward treatment objectives, or experiences intolerable adverse effects.

(g) Providing that patients addicted to controlled substances shall be considered for a referral for addiction treatment. Specialist consults or referrals shall be considered for high risk patients and those on long-term opioids.

(h)Providing that the content of medical records when a patient is prescribed a controlled substance for the management or treatment of pain includes, at a minimum, the medical history and the physical examination, diagnostic, therapeutic and laboratory results, evaluations and any consultations, treatment objectives, discussion of risks and benefits of the opioid prescriptions, informed consent of the patient, treatments, medications, including date, type, dosage and quantity prescribed, instructions and agreements, and details regarding any periodic reviews.

(i) Creating exemptions to the rules required under this section for situations in which a controlled substance is being prescribed for the management of chronic pain for:

(1) Patients with cancer.

(2) Patients with a terminal condition.

(3) Long-term, non-rehab residents of a nursing home facility.

(4) Patients in a hospice program.

(5) Patients in a hospital based palliative care program.

(j) Providing for the enforcement of the rules required under this section by specifying that any noncompliance with such rules shall constitute unprofessional conduct under the appropriate board's law.

(k) Demonstrating competency in the area of pain management or opioid prescribing every 2 years through either obtaining at least 4 continuing education credits or passing an approved online examination on pain management or opioid prescribing.

III.(a) Before April 1, 2016, the board of veterinary medicine shall submit to the joint legislative committee on administrative rules, final proposed rules for prescribing controlled substances, specifically opioids, by veterinarians for the management or treatment of pain. For the practice components set forth in this paragraph, the term "patient" refers to the animal being prescribed controlled substances for the management or treatment of pain, and the term "owner" refers to the legal owner of the animal.

(b) The rules required under subparagraph (a) shall, at a minimum, contain mandatory standards for the practice components outlined in subparagraph (c).

(c) The rules required by subparagraph (a), shall, at a minimum, contain mandatory standards for the following practice components:

(1) Conducting and documenting a complete patient evaluation to determine whether or not a patient is an appropriate candidate for a controlled substance prescription for the

management or treatment of pain. A complete patient evaluation shall include the completion of an assessment of the pain or anticipated pain in the case of prescribing opioids in advance of a surgical procedure, a physical examination and a detailed medical history. A patient can be prescribed a controlled substance for the treatment or management of chronic pain only when:

(A) Other non-opioid medication measures have not resolved the patient's pain or, in the professional judgment of the prescriber, will not resolve the patient's pain;

(B) The potential benefits of opioid therapy are likely to outweigh the potential harm associated with it; and

(C) There is no contraindication to the use of a controlled substance for pain

(2) Using the program database to query the patient, its owner and the individual bringing the patient in to see the veterinarian, if applicable, when writing an initial controlled substance prescription for the management or treatment of a patient's pain and then periodically as circumstances dictate.

(3) Limiting prescriptions for the management or treatment of pain based on the patient evaluation, review of the program database and other circumstances deemed appropriate. Limitations shall include, but not be limited to, prescribing at the lowest possible effective dosage and titrating slowly.

(4) Documenting controlled substance treatment agreements between the veterinarian and the patient's owner. Such agreements include, at a minimum, the owner's agreement to give the medications to the patient at the dose and frequency prescribed, conduct that triggers the discontinuation of opioid prescriptions, and a requirement that all opioid prescriptions are provided by a single veterinary practice and dispensed by a single pharmacy, if possible.

(5) Periodically reviewing patients being prescribed controlled substances for the management or treatment of pain to ascertain whether or not a change to, or discontinuance of, controlled substance therapy, is warranted. Periodic reviews, which are conducted at reasonable intervals, shall include, at a minimum, a documented:

(A) Evaluation of the patient;

(B) Assessment of progress or lack of progress in the relieving of pain in light of treatment objectives; and

(C) Assessment of the review of the program database. Tapering or weaning a pain patient off controlled substances, or discontinuing certain prescriptions altogether, occurs when the patient experiences no progress toward treatment objectives, experiences intolerable adverse effects or when the veterinarian has a reason to believe that the patient's owner has been diverting the prescribed medications intended for the patient.

(6) Providing that the content of medical records when a patient is prescribed a controlled substance for the management or treatment of pain includes, at a minimum, the

medical history and the physical examination, diagnostic, therapeutic and laboratory results, evaluations and any consultations, treatment objectives, treatments, medications, including date, type, dosage and quantity prescribed, instructions and agreements, and details regarding any periodic reviews.

(7) Providing for the enforcement of the rules by specifying that any non-compliance with the rules shall constitute unprofessional conduct under RSA 332-B.

(8) Demonstrating competency in the area of pain management or opioid prescribing every 2 years through either obtaining at least 4 continuing education credits or passing an approved online examination on pain management or opioid prescribing

22 New Paragraph; Board of Medicine; Rulemaking; Rules for Prescribing Controlled Drugs. Amend RSA 329:9 by inserting after paragraph XIX the following new paragraph

XX. Prescribing controlled drugs pursuant to RSA 318-B:39

23 New Paragraph. Board of Dental Examiners; Rulemaking; Rules for Prescribing Controlled Drugs. Amend RSA 317-A:12, XII-c and XIII to read as follows:

XII-c. Notwithstanding any other provision of law, rules, as the board deems necessary, relative to qualified dental assistants performing coronal polishing. Such rules shall not authorize a qualified dental assistant to perform a complete oral prophylaxis; [~~and~~]

XIII. Prescribing controlled drugs pursuant to RSA 318-B:39; and

XIV. Other matters related to the proper administration of this chapter

24 New Paragraph; Board of Nursing; Rulemaking; Rules for Prescribing Controlled Drugs. Amend RSA 326-B:9 by inserting after paragraph XI the following new paragraph:

XII. Prescribing controlled drugs pursuant to RSA 318-B:39.

25 New Paragraph; Board of Registration in Optometry; Rulemaking; Prescribing Rules for Controlled Drugs. Amend RSA 327:31 by inserting after paragraph IX the following new paragraph: X. Prescribing controlled drugs pursuant to RSA 318-B:39.

26 New Paragraph; Board of Podiatry; Rulemaking; Prescribing Rules for Controlled Drugs. Amend RSA 315:4 by inserting after paragraph XI the following new paragraph:

XII. Prescribing controlled drugs pursuant to RSA 318-B:39

27 New Paragraph; Naturopathic Board of Examiners; Rulemaking; Rules for Prescribing Controlled Drugs. Amend RSA 328-E:10, I(e) to read as follows:

(e) Prescribing controlled drugs pursuant to RSA 318-B:39.

(f) Any other rules which are necessary or proper for the administration of this chapter.

28 New Paragraph; Board of Veterinary Medicine; Rules for Prescribing Controlled Drugs. Amend RSA 332-B:7-a by inserting after paragraph XIV the following new paragraph:

XV. Prescribing controlled drugs pursuant to RSA 318-B:39.

Effective Date.

I. RSA 318-B:39, II(b) and III(c)(2) as inserted by section 1 of this act shall take effect July 1, 2016.

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