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**HB0610 Status Information - 2019 Session Year**

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General Status: HOUSE

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**HB 610-FN - AS INTRODUCED**

HB610

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2019 SESSION

19-0131  
01/10

HOUSE BILL ***610-FN***

AN ACT relative to treatment alternatives to **OPIOID**s.

SPONSORS: Rep. P. Schmidt, Straf. 19; Rep. Lundgren, Rock. 5; Rep. Massimilla, Graf. 1

COMMITTEE: Health, Human Services and Elderly Affairs

ANALYSIS

This bill requires the department of health and human services to create a voluntary non**OPIOID** directive form which may be used for non**OPIOID** treatment options for pain. This bill also establishes insurance coverage for such treatment options.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

19-0131  
01/10

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Nineteen*

AN ACT relative to treatment alternatives to **OPIOID**s.

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

1 New Subdivision; Non**OPIOID** Directives. Amend RSA 126-A by inserting after section 77 the following new subdivision:

Non**OPIOID** Directives

126-A:78 Definitions. In this subdivision:

I. "Health care facility" means a facility licensed under RSA 151.

II. "Health care practitioner" or "practitioner" means a person who is lawfully entitled to prescribe, administer, dispense, or distribute controlled drugs.

126-A:79 Treatment of Chronic Pain.

I. When patients seek treatment for any of the myriad conditions that cause pain, a health care practitioner shall refer or prescribe to a patient any of the following treatment alternatives, when applicable, before starting a patient on an **OPIOID**; chiropractic, physical therapy, occupational therapy, acupuncture, massage therapy, and/or osteopathic manipulation.

II. The health care practitioner shall honor the non**OPIOID** directive first, by administering less addictive, non**OPIOID** medications or nonpharmacological modalities as a first line of treatment, whenever possible.

126-A:80 Non**OPIOID** Directive Form.

I. The commissioner, in consultation with the appropriate licensing boards, shall develop and publish a uniform voluntary non**OPIOID** directive form which may be used by a patient to deny or refuse the administration or prescribing of a controlled substance containing an **OPIOID** by a practitioner. The voluntary non**OPIOID** directive form shall indicate to all prescribing practitioners and health care facilities that the named patient shall not be offered, prescribed, supplied with, or otherwise administered a controlled substance containing an **OPIOID**. The voluntary non**OPIOID** directive form shall be posted in a downloadable format on the department of health and human services' Internet website.

II.(a) A patient may execute and file a voluntary non**OPIOID** directive form with a health care practitioner or other authority authorized by the department to accept the voluntary non**OPIOID** directive form for filing. Each health care practitioner or other person authorized by the department to accept a voluntary non**OPIOID** directive form for filing shall date and affix his or her signature to the form in the presence of the patient as evidence of acceptance

HB0638 - Rank:70%  
HB0111 - Rank:32%  
HB0366 - Rank:26%  
HB0716 - Rank:19%  
HB0369 - Rank:13%  
HB0610 - Rank:10%  
SB0091 - Rank:2%  
SB0001 - Rank:1%

and shall provide a signed copy of the form to the patient.

(b) The patient executing and filing a voluntary non**OPIOID** directive form with a health care practitioner shall sign and date the form in the presence of the practitioner, a designee of the health care practitioner or other person authorized by the department to accept a voluntary non**OPIOID** directive form for filing. In the case of a patient who is unable to execute and file a voluntary non**OPIOID** form, the patient may designate a duly authorized guardian or health care proxy to execute and file the form in accordance with this subdivision.

(c) A patient may revoke the voluntary non**OPIOID** directive form for any reason and by written or oral means.

III. Notwithstanding paragraphs I and II, before signing a voluntary non**OPIOID** directive form a health care practitioner may, if deemed appropriate, assess the patient's personal and family history of alcohol or drug abuse and evaluate the patient's risk for medication misuse or abuse. In evaluating such risks, the practitioner shall access the controlled drug prescription health and safety program established under RSA 318-B:32, to determine whether an unusual or suspect pattern for the prescribing of controlled substances containing **OPIOID**s to the patient has been reported to the program. If a health care practitioner reasonably believes that a patient is at risk for substance misuse or abuse or a practitioner believes in the health care practitioner's expert medical opinion that for any other reason the non**OPIOID** directive is appropriate, the health care practitioner shall sign the form. The health care practitioner signing the non**OPIOID** directive form shall note doing so in the patient's medical record.

126-A:81 Rulemaking. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to:

I. A standard form for the recording and transmission of the voluntary non**OPIOID** directive form, which shall include verification by the patient's practitioner and which shall comply with the appropriate confidentiality requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) as amended, and shall include, the basic procedures necessary to revoke the voluntary non**OPIOID** directive form.

II. Procedures to record the voluntary non**OPIOID** directive form in the patient's medical record or, if available, the patient's interoperable electronic medical record in the system.

III. Requirements and procedures for a patient to appoint a duly authorized guardian or health care proxy to override a previously filed voluntary non**OPIOID** directive form and circumstances under which an attending practitioner may override a previously filed voluntary non**OPIOID** directive form based on documented medical judgment which shall be recorded in the patient's medical record.

IV. Procedures to ensure that any recording, sharing, or distributing of data relative to the voluntary non**OPIOID** directive form complies with all federal and state confidentiality laws.

V. Procedures for yearly continuing education for health care practitioners which shall include proof that they have completed no less than 4 hours of continuing education relating to effective alternatives to the use of **OPIOID**s which focus on the use of nonpharmacological modalities for pain management, specifically chiropractic, acupuncture, osteopathic manipulation, and massage.

126-A:82 Protections.

I. A written prescription which is presented at an outpatient pharmacy or a prescription that is electronically transmitted to an outpatient pharmacy shall be presumed to be valid for the purposes of this subdivision, and a pharmacist in an outpatient setting shall not be held in violation of this subdivision for dispensing a controlled substance containing an **OPIOID** or other controlled substance in contradiction to a voluntary non**OPIOID** directive form, except upon evidence that the pharmacist acted knowingly against the voluntary non**OPIOID** directive form.

II. No health care practitioner or employee of a health care practitioner acting in good faith shall be subject to criminal or civil liability or be considered to have engaged in unprofessional conduct for failing to offer or administer a prescription or medication order for a controlled substance containing an **OPIOID** under the voluntary non**OPIOID** directive form.

III. No person acting as a representative or an agent under a health care proxy shall be subject to criminal or civil liability for making a decision under RSA 126-A:79 in good faith.

2 New Section; Coverage for Non**OPIOID** Treatment for Pain; Individual. Amend RSA 415 by inserting after section 6-w the following new section:

415:6-x Coverage for Non**OPIOID** Treatment for Pain; Individual. Each insurer that issues or renews any individual policy, plan, or contract of accident or health insurance providing benefits for medical or hospital expenses shall provide to persons covered by such insurance who are residents of this state coverage for the costs of options to patients for evidenced-based non**OPIOID** treatment for pain, including but not limited to, chiropractic care, osteopathic manipulative treatment and acupuncture treatment. Policies issued pursuant to this section shall not have annual or lifetime numerical limits on visits for the treatment of pain. Reimbursement, coinsurance, copayment, and deductible amounts for pain management care utilizing chiropractic, acupuncture, and/or osteopathic manipulation shall be determined as a service under the Patient Protection and Affordable Care Act of 2009, as amended, definition of rehabilitation and habilitation.

3 New Section; Coverage for Non**OPIOID** Treatment for Pain; Group. Amend RSA 415 by inserting after section 18-aa the following new section:

415:18-bb Coverage for Non**OPIOID** Treatment for Pain. Each insurer that issues or renews any policy of group or blanket accident or health insurance providing benefits for medical or hospital expenses shall provide to each group, or to the portion of each group comprised of certificate holders of such insurance who are residents of this state, coverage for the costs of options to patients for evidenced-based non**OPIOID** treatment for pain, including but not limited to, chiropractic care, osteopathic manipulative treatment and acupuncture treatment. Policies issued pursuant to this section shall not have annual or lifetime numerical limits on visits for the treatment of pain. Reimbursement, coinsurance, copayment, and deductible amounts for pain management care utilizing chiropractic, acupuncture, and/or osteopathic manipulation shall be determined as a service under the Patient Protection and Affordable Care Act of 2009, as amended, definition of rehabilitation and habilitation.

4 Health Services Corporations; Applicable Statutes; Coverage for Non**OPIOID** Treatment for Pain. Amend RSA 420-A:2 to read as follows:

420-A:2 Applicable Statutes. Every health service corporation shall be governed by this chapter and the relevant provisions of RSA 161-H, and shall be exempt from this title except for the provisions of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415-A, RSA 415-F, RSA 415:6, II(4), RSA 415:6-g, RSA 415:6-k, RSA 415:6-m, RSA 415:6-o, RSA 415:6-r, RSA 415:6-u, RSA 415:6-v, RSA 415:6-w, **RSA 415:6-x**, RSA 415:18, V, RSA 415:18, XVI and XVII, RSA 415:18, VII-a, RSA 415:18-a, RSA 415:18-i, RSA 415:18-j, RSA 415:18-o, RSA 415:18-r, RSA 415:18-t, RSA 415:18-u, RSA 415:18-v, RSA 415:18-w, RSA 415:18-z, RSA 415:18-aa, **RSA 415:18-bb**, RSA 415:22, RSA 417, RSA 417-E, RSA 420-J, and all applicable provisions of title XXXVII wherein such corporations are specifically included. Every health service corporation and its agents shall be subject to the fees prescribed for health service corporations under RSA 400-A:29, VII.

5 Health Services Corporations; Applicable Statutes; Coverage for Non**OPIOID** Treatment for Pain; January 1, 2021. Amend RSA 420-A:2 to read as follows:

420-A:2 Applicable Statutes. Every health service corporation shall be governed by this chapter and the relevant provisions of RSA 161-H, and shall be exempt from this title except for the provisions of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415-A, RSA 415-F, RSA 415:6, II(4), RSA 415:6-g, RSA 415:6-k, RSA 415:6-m, RSA 415:6-o, RSA 415:6-r, RSA 415:6-u, RSA 415:6-v, RSA 415:6-w, **RSA 415:6-x**, RSA 415:18, V, RSA

415:18, XVI and XVII, RSA 415:18, VII-a, RSA 415:18-a, RSA 415:18-i, RSA 415:18-j, RSA 415:18-o, RSA 415:18-r, RSA 415:18-t, RSA 415:18-u, RSA 415:18-v, RSA 415:18-w, RSA 415:18-z, RSA 415:18-aa, **RSA 415:18-bb**, RSA 415:22, RSA 417, RSA 417-E, RSA 420-J, and all applicable provisions of title XXXVII wherein such corporations are specifically included. Every health service corporation and its agents shall be subject to the fees prescribed for health service corporations under RSA 400-A:29, VII.

6 Health Maintenance Organizations; Coverage for Non**OPIOID** Treatment for Pain. Amend RSA 420-B:20, III to read as follows:

III. The requirements of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415:6-g, RSA 415:6-m, RSA 415:6-o, RSA 415:6-r, RSA 415:6-t, RSA 415:6-u, RSA 415:6-v, RSA 415:6-w, **RSA 415:6-x**, RSA 415:18, VII-a, RSA 415:18, XVI and XVII, RSA 415:18-i, RSA 415:18-j, RSA 415:18-r, RSA 415:18-t, RSA 415:18-u, RSA 415:18-v, RSA 415:18-w, RSA 415:18-y, RSA 415:18-z, RSA 415:18-aa, **RSA 415:18-bb**, RSA 415-A, RSA 415-F, RSA 420-G, and RSA 420-J shall apply to health maintenance organizations.

7 Health Maintenance Organizations; Treatment for Non**OPIOID** Treatment for Pain; January 1, 2021. Amend RSA 420-B:20,III to read as follows:

III. The requirements of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415:6-g, RSA 415:6-m, RSA 415:6-o, RSA 415:6-r, RSA 415:6-u, RSA 415:6-v, RSA 415:6-w, **RSA 415:6-x**, RSA 415:18, VII-a, RSA 415:18, XVI and XVII, RSA 415:18-i, RSA 415:18-j, RSA 415:18-r, RSA 415:18-t, RSA 415:18-u, RSA 415:18-v, RSA 415:18-w, RSA 415:18-z, RSA 415:18-aa, **RSA 415:18-bb**, RSA 415-A, RSA 415-F, RSA 420-G, and RSA 420-J shall apply to health maintenance organizations.

8 Effective Date.

I. Sections 5 and 7 of this act shall take effect January 1, 2021, at 12:03 a.m.

II. The remainder of this act shall take effect January 1, 2020.

LBAO  
19-0131  
1/14/19

**HB 610-FN- FISCAL NOTE  
AS INTRODUCED**

AN ACT relative to treatment alternatives to **OPIOID**s.

**FISCAL IMPACT:**  State  County  Local  None

STATE:	Estimated Increase / (Decrease)			
	FY 2020	FY 2021	FY 2022	FY 2023
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	Indeterminable	Indeterminable	Indeterminable	Indeterminable
<b>Expenditures</b>	Indeterminable	Indeterminable	Indeterminable	Indeterminable
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General Federal Funds	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input checked="" type="checkbox"/> Other -

**METHODOLOGY:**

This bill amends 126:A by requiring the Department of Health and Human Services to develop a uniform voluntary non-**OPIOID** directive form which may be used by a patient to deny the administration or prescribing of an **OPIOID** controlled substance from a practitioner. This bill also adds a new section after RSA 415:6-w requiring non-**OPIOID** treatments be covered by insurance such as chiropractic, acupuncture, or osteopathic manipulation treatments.

The Department of Health and Human Services assumes it would be required to develop and implement a new Medicaid service because Medicaid does not currently cover chiropractic or acupuncture treatment. Implementation would require administrative rules, a State Plan Amendment, and actuarial analysis to determine the impact to the Managed Care capitation rates. Additionally, the Department notes an indeterminate amount of additional staff and financial resources will be required to meet the requirements of the new program and provide additional services to Medicaid beneficiaries. The Department states it is unable to estimate the cost of developing the non-**OPIOID** treatment program because it cannot estimate the number of Medicaid beneficiaries who would participate in or receive the services, cost and number of program services, or possible Medicaid cost savings from the program. The Department anticipates a funding mix of federal and state funds, but notes that shared costs vary by program and services provided.

The Insurance Department states there would be an indeterminable fiscal impact to premiums and premium tax revenue to the extent that previously non-covered services would now be covered through insurance claims. The Department also states the State's covered services include 12 visits of chiropractic care per benefit period. It assumes that costs associated with visits beyond the allotted number covered by insurance would be funded by the General Fund.

**AGENCIES CONTACTED:**

Insurance Department and Department of Health and Human Services