

Bill as
Introduced

HB 369-FN - AS INTRODUCED

2019 SESSION

19-0198

01/10

HOUSE BILL

369-FN

AN ACT

relative to the controlled drug prescription health and safety program.

SPONSORS:

Rep. Marsh, Carr. 8; Rep. Guthrie, Rock. 13; Rep. Knirk, Carr. 3; Rep. Kotowski, Merr. 24; Rep. Crawford, Carr. 4; Rep. Stapleton, Sull. 5; Rep. MacDonald, Carr. 6; Sen. Bradley, Dist 3; Sen. Rosenwald, Dist 13; Sen. Chandley, Dist 11

COMMITTEE:

Health, Human Services and Elderly Affairs

ANALYSIS

This bill clarifies the rule regarding querying the controlled drug prescription health and safety program when writing an initial opioid prescription for a patient's pain or substance use disorder.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Nineteen

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 1 Controlled Drug Prescription Health and Safety Program; Rulemaking. Amend the
2 introductory paragraph of RSA 318-B:41, II(a)(4)(A) to read as follows:

3 (4)(A) Querying the program database when writing an initial schedule II, III, or IV
4 opioid prescription for the management or treatment of a patient's pain **or substance use disorder**
5 and then periodically, at least twice a year. Such rules shall include exceptions for:

6 2 Effective Date. This act shall take effect 60 days after its passage.

LBAO
 19-0198
 12/28/18

**HB 369-FN- FISCAL NOTE
 AS INTRODUCED**

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

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2020	FY 2021	FY 2022	FY 2023
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source:	<input type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other - Fees collected by the Office of Professional Licensure and Certification per RSA 310-A:1-e.			

METHODOLOGY:

This bill requires certain boards within the Office of Professional Licensure and Certification (OPLC) to adopt rules relative to queries from the Prescription Drug and Monitoring Program (PDMP) by professionals treating patients with substance use disorders. The OPLC states that, by adding an additional sub-category of treatment professionals (social workers involved in substance use disorder treatment) to the list of those allowed to review PDMP information, the bill may potentially result in an increase in noncompliance investigations conducted by its Pharmacy Unit. For this reason, the bill may indirectly increase OPLC expenditures.

AGENCIES CONTACTED:

Office of Professional Licensure and Certification

CHAPTER 28
HB 369-FN - FINAL VERSION

2019 SESSION

19-0198
01/10

HOUSE BILL **369-FN**

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

SPONSORS: Rep. Marsh, Carr. 8; Rep. Guthrie, Rock. 13; Rep. Knirk, Carr. 3; Rep. Kotowski,
Merr. 24; Rep. Crawford, Carr. 4; Rep. Stapleton, Sull. 5; Rep. MacDonald, Carr.
6; Sen. Bradley, Dist 3; Sen. Rosenwald, Dist 13; Sen. Chandley, Dist 11

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This bill clarifies the rule regarding querying the controlled drug prescription health and safety program when writing an initial opioid prescription for a patient's pain or substance use disorder.

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CHAPTER 28
HB 369-FN - FINAL VERSION

19-0198
01/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Nineteen

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 28:1 Controlled Drug Prescription Health and Safety Program; Rulemaking. Amend the
2 introductory paragraph of RSA 318-B:41, II(a)(4)(A) to read as follows:

3 (4)(A) Querying the program database when writing an initial schedule II, III, or IV
4 opioid prescription for the management or treatment of a patient's pain *or substance use disorder*
5 and then periodically, at least twice a year. Such rules shall include exceptions for:

6 28:2 Effective Date. This act shall take effect 60 days after its passage.

Approved: May 15, 2019

Effective Date: July 14, 2019

Amendments

Amendment to HB 369-FN

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

2

3 2 Controlled Drug Prescription Health and Safety Program; Confidentiality. Amend RSA 318-
4 B:34, I to read as follows:

5 I. Information contained in the program, information obtained from it, and information
6 contained in the records of requests for information from the program, is confidential, is not a public
7 record or otherwise subject to disclosure under RSA 91-A, and is not subject to discovery, subpoena,
8 or other means of legal compulsion for release and shall not be shared with an agency or institution,
9 except *the department of health and human services or as otherwise* provided in this
10 subdivision. This paragraph shall not prevent a practitioner from using or disclosing program
11 information about a patient to others who are authorized by state or federal law or regulations to
12 receive program information.

13 3 New Section; Department of Health and Human Services; Controlled Drug Prescription
14 Health and Safety Program Information; Confidentiality. Amend RSA 126-A by inserting after
15 section 77 the following new section:

16 126-A:78 Controlled Drug Prescription Health and Safety Program Information;
17 Confidentiality.

18 I. Information obtained by the department from the controlled drug prescription health and
19 safety program, pursuant to RSA 318-B:34, is confidential, is not a public record or otherwise
20 subject to disclosure under RSA 91-A, is not subject to discovery, subpoena, or other means of legal
21 compulsion for release and shall not be shared with an agency or institution, except as provided in
22 RSA 318-B:34, or under this section.

23 II. The department, in consultation with the program, shall adopt rules, under RSA 541-A,
24 to establish and maintain procedures to ensure the privacy and confidentiality of patients and
25 patients' information and as necessary to carry out the duties of the department under this section.

26 III. The department may release information and reports for analysis and evaluation,
27 statistical analysis, public research, public policy, and educational purposes; provided that the data
28 is aggregated or otherwise de-identified.

29 IV. The department shall enter into one or more reciprocal agreements or contracts with
30 the program to share prescription drug monitoring information, provided that the data is
31 aggregated or otherwise de-identified.

32 4 Effective Date. This act shall take effect 60 days after its passage.

2019-1357s

AMENDED ANALYSIS

This bill clarifies the rule regarding querying the controlled drug prescription health and safety program when writing an initial opioid prescription for a patient's pain or substance use disorder.

This bill also authorizes the program to share certain information with the department of health and human services.

UNAPPROVED

Health and Human Services
April 11, 2019
2019-1486s
01/04

Amendment to HB 369-FN

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

2

3 2 Controlled Drug Prescription Health and Safety Program; Confidentiality. Amend RSA 318-
4 B:34, I to read as follows:

5 I. Information contained in the program, information obtained from it, and information
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7 record or otherwise subject to disclosure under RSA 91-A, and is not subject to discovery, subpoena,
8 or other means of legal compulsion for release and shall not be shared with an agency or institution,
9 except *the department of health and human services* or as *otherwise* provided in this
10 subdivision. This paragraph shall not prevent a practitioner from using or disclosing program
11 information about a patient to others who are authorized by state or federal law or regulations to
12 receive program information.

13 3 New Section; Department of Health and Human Services; Controlled Drug Prescription
14 Health and Safety Program Information; Confidentiality. Amend RSA 126-A by inserting after
15 section 77 the following new section:

16 126-A:78 Controlled Drug Prescription Health and Safety Program Information;
17 Confidentiality.

18 I. Information obtained by the department from the controlled drug prescription health and
19 safety program, pursuant to RSA 318-B:34, is confidential, is not a public record or otherwise
20 subject to disclosure under RSA 91-A, is not subject to discovery, subpoena, or other means of legal
21 compulsion for release and shall not be shared with an agency or institution, except as provided in
22 RSA 318-B:34, or under this section.

23 II. The department, in consultation with the program, shall adopt rules, under RSA 541-A,
24 to establish and maintain procedures to ensure the privacy and confidentiality of patients and
25 patients' information and as necessary to carry out the duties of the department under this section.

26 III. The department may release information and reports for analysis and evaluation,
27 statistical analysis, public research, public policy, and educational purposes; provided that the data
28 is aggregated or otherwise de-identified.

29 IV. The department shall enter into one or more reciprocal agreements or contracts with
30 the program to share prescription drug monitoring information, provided that the data is
31 aggregated or otherwise de-identified.

32 4 Effective Date. This act shall take effect 60 days after its passage.

2019-1486s

AMENDED ANALYSIS

This bill clarifies the rule regarding querying the controlled drug prescription health and safety program when writing an initial opioid prescription for a patient's pain or substance use disorder.

This bill also authorizes the program to share certain information with the department of health and human services.

Committee Minutes

Senate Health and Human Services Committee

Doug Marino 271-8631

HB 369-FN, relative to the controlled drug prescription health and safety program.

Hearing Date: March 26, 2019

Time Opened: 1:34 p.m.

Time Closed: 1:51 p.m.

Members of the Committee Present: Senators Sherman, Chandley, Bradley and Gray

Members of the Committee Absent : Senator Fuller Clark

Bill Analysis: This bill clarifies the rule regarding querying the controlled drug prescription health and safety program when writing an initial opioid prescription for a patient's pain or substance use disorder.

Sponsors:

Rep. Marsh

Rep. Guthrie

Rep. Knirk

Rep. Kotowski

Rep. Crawford

Rep. Stapleton

Rep. MacDonald

Sen. Bradley

Sen. Rosenwald

Sen. Chandley

Who supports the bill: Kate Frey (New Futures), Mike Padmore (NH Medical Society), Senator Cindy Rosenwald (District 13), Dr. Jonathan Ballard, MD (DHHS), John Williams (DHHS), Tricia Tilley (DHHS), Senator John Reagan (District 17), Mike Bullek (Board of Pharmacy), Senator Shannon Chandley (District 11), Representative William Marsh (Carroll District 8)

Who opposes the bill: None

Who is neutral on the bill: None

Summary of testimony presented:

Representative William Marsh, Carroll District 8 (Provided written testimony)

- This bill adds four words to the current statute, "or substance use disorder."
- The bill will allow providers to consult the prescription drug monitoring program (PDMP) before prescribing opioids.
- DHHS is bringing forward an amendment to the bill to adjust the language, Rep. Marsh supports this amendment.

John Williams and Dr. Jonathan Ballard, MD, Department of Health and Human Services

- The department supports House Bill 369. The department is also bringing forward an amendment to the bill.

- SB 120 also dealt with the PDMP. However, Senator Giuda requested that the department not move forward with an amendment to that legislation. For that reason, the department is introducing this amendment to HB 369.
- The amendment creates two new sections to the bill.
- The first new section allows the department to be added to entities that can receive information from the PDMP.
- The second new section ensures that the data from the PDMP will remain confidential, and the department will adopt rules to ensure the security of that data.
- Dr. Ballard pointed out that current statute does not adequately allow the department to access PDMP data to ascertain opioid prescription trends around the state.
- With this information, the department can more effectively identify communities where high doses of opioids are being prescribed.
- Senator Bradley asked if the amendment conflicts with the language of the bill. Dr. Ballard indicated that it does not.
- Senator Sherman asked if this data would be used to identify specific communities in need or identify providers that are prescribing high doses of opioids. Dr. Ballard indicated that the data is not going to be used to identify anybody specifically, but rather to inform preventative actions that the department may take.

DLM

Date Hearing Report completed: March 28, 2019

Speakers

Testimony

HB369

Madame Chairman:

For the record I am Representative William Marsh, representing the towns of Sandwich, Moultonborough and Tuftonboro, Ossipee, Effingham, Wakefield, and Brookfield.

I am pleased today to introduce HB369 relative to the controlled drug prescription health and safety program. This bill came out of discussion at the October meeting of Carroll County Responds to Substance Abuse, which I attend in my role as Health Officer of the Town of Brookfield.

Under current law, prescribers are only required to query the PDMP when prescribing opioids for pain. Nevertheless, this has been a very successful program, and I believe the Medical Society has said it has resulted in an approximately 30% reduction in opioid prescriptions.

This bill adds 4 words to current law: “or substance use disorder.”

Why would we want to do so? Well first of all, opioids are just as addictive whatever the indication they are prescribed for.

Second, the people involved in MAT programs consider it best practice to consult the PDMP, even though it is not required – they need to know if the people they are treating for substance use disorder are also getting opioids from another source both to be effective and to avoid overdosage.

Third, there is potential for diversion. Obviously receiving drugs from multiple sources suggests that possibility. The traditional drug, methadone, is well known to have a street value. I thought buprenorphine had less potential for abuse, but I have learned that if it is injected rather than taken as prescribed, it can be abused. Given that MAT treatment programs are growing much faster than syringe exchange programs, we don't want our MAT programs to become sources for the transmission of hepatitis C and HIV.

I am aware of and approve additional language DHHS is bringing forward in an amendment.

I thank you, and I will take questions.

Draft Amendment to HB 369 (03-26-2019)

Replace all after section 1 bill as introduced to read as follows:

2 Controlled Drug Act; Controlled Drug Prescription Health and Safety Program; Confidentiality. Amend RSA 318-B:34 paragraphs I, II and III to read as follows: 318-B:34 Confidentiality. –

I. Information contained in the program, information obtained from it, and information contained in the records of requests for information from the program, is confidential, is not a public record or otherwise subject to disclosure under RSA 91-A, and is not subject to discovery, subpoena, or other means of legal compulsion for release and shall not be shared with an agency or institution, except *the department of health and human services, established in RSA 126-A:4, or as otherwise* provided in this subdivision. This paragraph shall not prevent a practitioner from using or disclosing program information about a patient to others who are authorized by state or federal law or regulations to receive program information.

3 New Section; Department of Health and Human Services; Controlled Drug Prescription Health and Safety Program Information; Confidentiality. Amend RSA 126-A by inserting after section RSA 126-A:74 a new section to read as follows:

126-A:75 Controlled Drug Prescription Health and Safety Program Information; Confidentiality.-

I. Information obtained by the department from the controlled drug prescription health and safety program, pursuant to RSA 318-B:34, is confidential, is not a public record or otherwise subject to disclosure under RSA 91-A, and is not subject to discovery, subpoena, or other means of legal compulsion for release and shall not be shared with an agency or institution, except as provided in subdivision RSA 318-B:31, et seq. or under this section.

II. The department, in consultation with the program, shall adopt rules, under RSA 541-A, to establish and maintain procedures to ensure the privacy and confidentiality of patients and patients information and to matters as are necessary to carry out the powers and duties of the department under this section.

III. The department may release information and reports for analysis and evaluation, statistical analysis, public research, public policy, and educational purposes, provided that the data is aggregated or otherwise de-identified.

IV. The department shall enter into one or more reciprocal agreements or contracts to share prescription drug monitoring information with the office, provided that the data is aggregated or otherwise de-identified.

4 Effective Date. This act shall take effect 60 days after its passage.

Voting Sheets

Senate Health and Human Services Committee
EXECUTIVE SESSION RECORD
2018-2019 Session

Bill # HB 359

Hearing date:

Executive Session date: March 26, 2019

Motion of: Amendment ~~RBW~~ 13575 Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Sherman, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Fuller Clark, Vice Chair	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Chandley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Bradley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gray	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: OTPA Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Sherman, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Fuller Clark, Vice Chair	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Chandley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Bradley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gray	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Sherman, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Fuller Clark, Vice Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Chandley	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Bradley	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Gray	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Reported out by: Fuller Clark
Consent

Notes:

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE
FOR THE CONSENT CALENDAR

Tuesday, April 9, 2019

THE COMMITTEE ON Health and Human Services

to which was referred **HB 369-FN**

AN ACT

relative to the controlled drug prescription health
and safety program.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 5-0

AMENDMENT # 2019-1486s

Senator Martha Fuller Clark
For the Committee

The bill will allow medical professionals who specialize in substance use disorder treatment to access the prescription drug monitoring program before prescribing opioids. The bill ensures that patient information will continue to be protected in compliance with HIPAA. The committee amendment adds the Department of Health and Human Services to the list of entities that can receive information from the PDMP.

Doug Marino 271-8631

FOR THE CONSENT CALENDAR

HEALTH AND HUMAN SERVICES

HB 369-FN, relative to the controlled drug prescription health and safety program.

Ought to Pass with Amendment, Vote 5-0.

Senator Martha Fuller Clark for the committee.

The bill will allow medical professionals who specialize in substance use disorder treatment to access the prescription drug monitoring program before prescribing opioids. The bill ensures that patient information will continue to be protected in compliance with HIPAA. The committee amendment adds the Department of Health and Human Services to the list of entities that can receive information from the PDMP.

Docket of HB369

Docket Abbreviations

Bill Title: relative to the controlled drug prescription health and safety program.

Official Docket of HB369.:

Date	Body	Description
1/7/2019	H	Introduced 01/03/2019 and referred to Health, Human Services and Elderly Affairs HJ 3 P. 11
1/9/2019	H	Public Hearing: 01/16/2019 10:30 am LOB 205
1/23/2019	H	==RECESSED== Executive Session: 01/29/2019 01:00 pm LOB 205
1/30/2019	H	==CONTINUED== Executive Session: 02/05/2019 01:00 pm LOB 205
2/12/2019	H	Committee Report: Ought to Pass for 02/27/2019 (Vote 20-0; CC) HC 13 P. 10
2/27/2019	H	Ought to Pass: MA VV 02/27/2019 HJ 6 P. 16
3/18/2019	S	Introduced 03/14/2019 and Referred to Health and Human Services; SJ 9
3/20/2019	S	Hearing: 03/26/2019, Room 101, LOB, 01:30 pm; SC 15
4/11/2019	S	Committee Report: Ought to Pass with Amendment #2019-1486s , 04/18/2019; Vote 5-0; CC; SC 18
4/18/2019	S	Sen. Bradley Moved to Remove HB 369-FN from the Consent Calendar; 04/18/2019; SJ 13
4/18/2019	S	Committee Amendment #2019-1486s , AF, VV; 04/18/2019; SJ 13
4/18/2019	S	Ought to Pass: MA, VV; OT3rdg; 04/18/2019; SJ 13
5/3/2019	S	Enrolled (In recess 05/02/2019); SJ 16
5/7/2019	H	Enrolled 05/02/2019 HJ 14 P. 42
5/16/2019	H	Signed by Governor Sununu 05/15/2019; Chapter 28; Eff: 07/14/2019

NH House

NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: HB 369-FN

Senate Committee: HHS

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

Bill Hearing Documents: {Legislative Aides}

Bill version as it came to the committee

All Calendar Notices

Hearing Sign-up sheet(s)

Prepared testimony, presentations, & other submissions handed in at the public hearing

Hearing Report

Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: {Legislative Aides}

All amendments considered in committee (including those not adopted):

- amendment # 1357

- amendment # 1486

- amendment # _____

- amendment # _____

Executive Session Sheet

Committee Report

Floor Action Documents: {Clerk's Office}

All floor amendments considered by the body during session (only if they are offered to the senate):

- amendment # _____ - amendment # _____

- amendment # _____ - amendment # _____

Post Floor Action: (if applicable) {Clerk's Office}

Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):

Enrolled Bill Amendment(s)

Governor's Veto Message

All available versions of the bill: {Clerk's Office}

as amended by the senate

as amended by the house

final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Committee Aide

Date

Senate Clerk's Office jm