

Committee Report

CONSENT CALENDAR

February 18, 2021

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Executive Departments and Administration to which was referred HB 444,

AN ACT relative to the board of pharmacy. Having considered the same, report the same with the following resolution: RESOLVED, that it is INEXPEDIENT TO LEGISLATE.

Rep. Sallie Fellows

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Executive Departments and Administration
Bill Number:	HB 444
Title:	relative to the board of pharmacy.
Date:	February 18, 2021
Consent Calendar:	CONSENT
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

This bill makes various technical changes to the laws governing pharmacies and modifies the inspection procedures for some organizations that store prescription drugs. Due to drafting issues, and a lack of consensus between the professional boards involved, the sponsor and the committee jointly believe a fresh start would be the most conducive approach to reaching a workable solution.

Vote 19-0.

Rep. Sallie Fellows
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Executive Departments and Administration

HB 444, relative to the board of pharmacy. **INEXPEDIENT TO LEGISLATE.**

Rep. Sallie Fellows for Executive Departments and Administration. This bill makes various technical changes to the laws governing pharmacies and modifies the inspection procedures for some organizations that store prescription drugs. Due to drafting issues, and a lack of consensus between the professional boards involved, the sponsor and the committee jointly believe a fresh start would be the most conducive approach to reaching a workable solution. **Vote 19-0.**

Original: House Clerk

Cc: Committee Bill File

Archived: Tuesday, April 20, 2021 9:30:58 AM
From: [Carol McGuire](#)
Sent: Monday, February 22, 2021 9:26:05 AM
To: [Miriam Simmons](#); [Pam Smarling](#)
Subject: Fwd: Report for HB 444 board of pharmacy
Response requested: No
Importance: Normal

----- Forwarded message -----
From: **Fellows4NH** <Fellows4NH@myfairpoint.net>
Date: Sat, Feb 20, 2021 at 6:13 PM
Subject: RE: Report for HB 444 board of pharmacy
To: Carol McGuire <mcguire4house@gmail.com>

Carol, That change is fine. Thanks.

From: [Carol McGuire](#)
Sent: Saturday, February 20, 2021 5:11 PM
To: [Fellows4NH](#)
Subject: Re: Report for HB 444 board of pharmacy

Sallie,

are these edits OK? Your conclusion was fine, but the start confused me.

Carol

HB 444, relative to the board of pharmacy.

ITL, 19-0, Consent

This bill makes various technical changes to the laws governing pharmacies, and modifies the inspection procedures for some organizations that store prescription drugs. Due to drafting issues, and a lack of consensus between the professional boards involved, the sponsor and the committee

jointly believe a fresh start would be the most conducive approach to reaching a workable solution.

Representative Sallie Fellows for Executive Departments and Administration.

On Sat, Feb 20, 2021 at 1:04 PM Fellows4NH <Fellows4NH@myfairpoint.net> wrote:

HB 444 relative to the Board of Pharmacy Report

Representative Sallie Fellows for Executive Departments and Administration. This bill modifies the inspection procedures for some organizations that store prescription drugs. Due to drafting issues as well as a lack of consensus between the health-related state boards involved, the sponsor and the committee jointly believe a fresh start would be the most conducive approach to reaching a workable solution.

Voting Sheets

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

EXECUTIVE SESSION on HB 444

BILL TITLE: relative to the board of pharmacy.

DATE: February 18, 2021

LOB ROOM: Remote / Hybrid

MOTIONS: INEXPEDIENT TO LEGISLATE

Moved by Rep. Fellows

Seconded by Rep. S. Pearson

Vote: 19-0

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep John Sytek, Clerk

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS & ADMINISTRATION

EXECUTIVE SESSION on Bill # HB 444

BILL TITLE: RELATIVE TO BOARD OF PHARMACY

DATE: 2-18-20

LOB ROOM: 306-308

MOTION: (Please check one box)

- OTP ITL Retain (1st year) Adoption of Amendment # _____
 Interim Study (2nd year) (if offered)

Moved by Rep. PELLOWS Seconded by Rep. PEARSON Vote: 19-0

MOTION: (Please check one box)

- OTP OTP/A ITL Retain (1st year) Adoption of Amendment # _____
 Interim Study (2nd year) (if offered)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

- OTP OTP/A ITL Retain (1st year) Adoption of Amendment # _____
 Interim Study (2nd year) (if offered)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____


MOTION: (Please check one box)

- OTP OTP/A ITL Retain (1st year) Adoption of Amendment # _____
 Interim Study (2nd year) (if offered)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

CONSENT CALENDAR: YES NO

Minority Report? _____ Yes _____ No If yes, author, Rep: _____ Motion _____

Respectfully submitted: 
Rep. John Sytek, Clerk



2021 SESSION

Executive Departments and Administration

 Bill #: HB 444 Motion: ITL AM #: _____ Exec Session Date: 2-18-21

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
McGuire, Carol M. Chairman	X		
Roy, Terry Vice Chairman	X		
Sytek, John Clerk	X		
Pearson, Stephen C.	X		
Yakubovich, Michael	X		
Lekas, Tony	X		
Alliegro, Mark C.	X		
Bailey, Glenn	X		
Lanzara, Tom E.	X		
Santonastaso, Matthew	X		
Goley, Jeffrey P.	X		
Schuett, Dianne E.	X		
Jeudy, Jean L.	X		
Schmidt, Peter B.	X		
Schultz, Kristina M.	X		
Fellows, Sallie D.	X		
Fontneau, Timothy J.	X		
Grote, Jaci L.	X		
O'Brien, Michael B.	X		
TOTAL VOTE:			

Hearing Minutes

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

PUBLIC HEARING ON HB 444

BILL TITLE: relative to the board of pharmacy.

DATE: February 11, 2021

LOB ROOM: LOB Hybrid **Time Public Hearing Called to Order:** 2:00 p.m.

Time Adjourned: 3:05 p.m.

(please circle if present)

Committee Members: Reprs. McGuire, Roy, Sytek, S. Pearson, Yakubovich, Lekas, Alliegro, Bailey, Lanzara, Santonastaso, P. Schmidt, Schultz, Goley, Jevdy, Schuett, Fellows, Fontneau, Grote, M. O'Brien

TESTIMONY

Bill Sponsors:

Rep. Merchant

Rep. Massimilla

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

HB 444 relative to the board of pharmacy. (2:00/3:05)

***Rep. Merchant introduced the bill and spoke in support.**

Rep. Merchant said the bill makes technical corrections to the pharmacy/ pharmacists statute. He then went over provisions of the bill. First was compounding.

The issue was the BoP going into doctors' offices to inspect compounding. He said that the challenge the Board faces is that there is a conflict in national standards (which he explained in more detail in answering questions). This bill would resolve the conflict by giving the Board more flexibility, either to use the USP (national) standards or any others appropriate for NH residents. He described this as changing "shall" to "may."

Another area of concern was labeling. He contrasted the "old" days where one person did the entire process with now where several people may be involved. He wanted to see the initials of the pharmacist who reviewed and approved the prescription. He then spoke of collaborative practice. The bill would remove the requirement for the patient to sign the agreement between the pharmacist and the provider to approve the practice.

He also wanted to clear up the ambiguity of "attending" in the present law. By deleting the word, it would allow the patient to enter into collaborative practice with multiple providers. He then discussed permits and fees. Unlike the previous times where the owner was the pharmacist, today the pharmacist works for a company and does not have control.

The bill would "level the playing field" and make both parties responsible to the Board. He then talks about inspections. The Board would write the rules concerning storage, handling and disposal of drugs. It would have authority of inspect non-pharmacy settings. If it found infractions, it would have no enforcement power but would rather report such to the appropriate Board for that practitioner.

In answer to a question, he said the Board was in full support. As the questioning proceeded: some wording issues were discovered; the nature of the conflict was discussed in greater detail.

Nancy Wilson, NH Nurse Practitioners Ass'n, spoke in opposition.

She said this was a rewrite of a bill last year that went to interim study which did not happen because of COVID. She said that the outstanding issues concerning definitions and inter-professional disputes had not been resolved. Her concerns were with the definitions of dispensing and disciplinary procedures. The timing of this bill is not good since further study is needed. She said the Board of Medicine had an amendment that would address the overreach – duplicative and unnecessary - of the Board of Pharmacy. Question: did the Boards work together to resolve the dispute?

***Helen Pervanas, President of the Board of Pharmacy, spoke in favor** and said that the bill further defines and clarifies the Pharmacy statute.

She discussed the various changes effected by the bill. She added that in the past, the other professions requested the help of the Board of Pharmacy regarding the storage and handling of drugs.

Michael Auerbach, Executive Director of the Dental Association, spoke in opposition.

He said that there was no consultation with his association or any other licensing boards.

He said that the BoP may not be familiar with dentistry. The objection is to the inspection. The Board of Dental Examiners would be in favor of an amendment striking dentistry.

James (“Jim”) Potter, Executive VP of the NH Medical Society, spoke in opposition by a vote of the Board of Medicine.

He said that he was representing *Dr. David Conway, President of the Board of Medicine, who could not attend.

It was opposed to the inspection provision which would allow the BoP to inspect “at will” other licensed providers. He said there was an amendment striking various medical providers from the inspection aspect of the bill. The amendment would also permit inspection by the BoP if asked for by the pertinent board.

He said that MOUs proposed by the BoP had been rejected. He said the ED of the BoP had been terminated for irregular practices related to considerations in this bill.

He mentioned that proposed rules by the BoP had not been accepted. He cited the area of confusion between “compounding” and “mixing” and clarified the distinctions. He did not want to see the BoP be permitted to make its own interpretation of national standards until an LBA audit is conducted in the spring.

Public hearing adjourned at 3:05 p.m.

**Respectfully submitted,
Rep. John Sytek
Committee Clerk**

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Public hearing adjourned at 3:05 p.m.

**Respectfully submitted,
Rep. John Sytek
Committee Clerk**

House Remote Testify

Executive Departments and Administration Committee Testify List for Bill HB444 on 2

Support: 6 Oppose: 12 Neutral: 0 Total to Testify: 5

<u>Name</u>	<u>Email Address</u>	<u>Phone</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>§</u>
Wilson, Nancy	nancawilson@gmail.com	111.111.1111	A Member of the Public	New Hampshire Nurse Practitioner Association	Oppose	Yes (5m)	2
Pervanas, Helen	helen.pervanas@mcphs.edu	111.111.1111	A Member of the Public	The NH Board of Pharmacy	Support	Yes (5m)	2
Auerbach, Michael	mauerbach@nhds.org	111.111.1111	A Lobbyist	New Hampshire Dental Society	Oppose	Yes (3m)	2
Conway, David	dconway1947@gmail.com	111.111.1111	A Member of the Public	NH Board of Medicine	Oppose	Yes (3m)	2
Potter, James	james.potter@nhms.org	603.224.1909	A Lobbyist	NH Medical Society	Oppose	Yes (3m)	2
Jalbert, Dan	Dan.jalbert@gmail.com	617.230.1930	A Member of the Public	Myself	Oppose	No	2
Rathbun, Eric	ericrathbun@gmail.com	111.111.1111	A Member of the Public	Myself	Support	No	2
Cohen, Bruce	Bruce.cohen@leg.state.nh.us	111.111.1111	An Elected Official	Hillsborough 28	Oppose	No	2
Minnehan, Paula	pminnehan@nhha.org	111.111.1111	A Lobbyist	NH Hospital Association	Support	No	2
Hanson, Rachel	hansonrachel18@gmail.com	111.111.1111	A Member of the Public	Myself	Support	No	2
Medina, CJ	claryssa27@yahoo.com	111.111.1111	A Member of the Public	Myself	Oppose	No	2
Rochefort, David	david@easternstatesrx.com	111.111.1111	A Member of the Public	Myself	Support	No	2
Collins, Kathy	kathycollins15@yahoo.com	111.111.1111	A Member of the Public	Myself	Oppose	No	2
Kropp, Eric	DrKropp@activechoicemd.com	111.111.1111	A Member of the Public	Myself	Oppose	No	2
Massimilla, Linda	balloontraveler@yahoo.com	111.111.1111	An Elected Official	Myself	Support	No	2
Lalime, Judy	Judycutie75@yahoo.com	111.111.1111	A Member of the Public	Myself	Oppose	No	2
burhoe, theresa	t.burhoe16@gmail.com	111.111.1111	A Member of the Public	Myself	Oppose	No	2
DiNapoli, Pamela	nhna.ned@gmail.com	111.111.1111	A Member of the Public	NH Nurses Association	Oppose	No	2

Testimony

WRITTEN TESTIMONY

To: NH House Executive Departments and Administration Committee
From: David Conway, MD - President, NH Board of Medicine
RE: HB 444
Date: February 11, 2021

Good afternoon, Mr. Chairman and members of the committee. For the record, my name is Dr. David Conway. I am a Board Certified OB/GYN and currently serve as President of the New Hampshire Board of Medicine. I regret that I am not able to testify before you today.

Please know that the Board of Medicine is strongly opposed to the language in section 2 of HB 444 that would strengthen the NH Board of Pharmacy's ability to inspect at will providers who are licensed by other Boards – non-hospital based physicians, veterinarians, dentists, advanced registered nurse practitioners, physician assistants at their practices, clinics or facilities.

In fact, the Board of Medicine rejected a Memorandum of Understanding put forward last year by the Board of Pharmacy to accomplish this same end. It is my understanding that the Board of Nursing also rejected a similar MOU by the Board of Pharmacy.

The Board of Medicine firmly believes that it should retain the sole authority to be able to request the inspectional services of its licensees pertaining to prescription drugs.

I am also very troubled by section 3: Compounding Standards of HB 444 that would give the Board of Pharmacy the ability to interpret and issue rules on national compounding standards given its more recent checked history on infusion therapy services. I would urge the committee to not make any changes to the NH Board of Pharmacy's authority to develop rules over prescription drugs until after the OPLC's Legislative Budget Assistant (LBA) audit has been conducted. I have been told that this LBA audit is scheduled for later this spring and will be focusing on the questionable practices of the Board of Pharmacy over the last five years.

Finally, on behalf of the New Hampshire Board of Medicine, I strongly urge the committee to incorporate the proposed substitute amendment put forward by the Board of Medicine and five other healthcare professional organizations that would:

- 1) Remove any implied authority for the NH Board of Pharmacy to inspect at will non-hospital based physicians, veterinarians, dentists, advanced registered nurse practitioners, physician assistants at their practices, clinics or facilities; and
- 2) Clarify that the New Hampshire healthcare professional boards retain the authority over their respective licensees to request such inspectional services of the NH Board of Pharmacy.

Thank you for the opportunity to submit this testimony on HB 444.



NEW HAMPSHIRE NURSES' ASSOCIATION

25 Hall St. Unit 1E, Concord, NH 03301

PHONE: (603) 225-3783

EMAIL: office@nhnurses.org

WEBSITE: www.NHNurses.org

2/10/2021

Dear Prime Sponsor Representative Merchant, Chairperson McGuire and members of the Executive Departments and Administration Committee

During the 2020 legislative session representative Gary Merchant (D) introduced HB 1536: An act relative to pharmacists-in-charge, the inspection and regulation of prescription drugs by the pharmacy board, and disciplinary actions by the pharmacy board. The bill would have modified the duties and responsibilities of a pharmacist-in-charge, clarified the inspection services provided by the board of pharmacy, and repeal a provision on requirements for written orders for schedule II-controlled drugs. The bill would have also added disciplinary authority for the pharmacy board in the controlled drug act. The bill was opposed by several boards including the Board of Medicine. At the time the NH Nurses Association spoke in opposition to some of the provisions in the bill. The bill was subsequently amended and the final language that would have given the BOP unfettered ability of the BOP to inspect nurse's "aseptic technique" in non-hospital settings was removed. The amendment would have explicitly removed any inferred authority over other practitioners, and explicitly giving the power to inspect by each licensee's respective board who can request such BOP inspectors, if deemed necessary. The bill was sent for interim study in 2020 and not included in any of the 2020 omnibus bills.

Once again Representative Merchant has introduced language in HB 444 that reads:

"318:8-a Inspection and Regulation of Certain Users of Prescription Drugs. All physicians, veterinarians, dentists, advanced registered nurse practitioners, physician assistants, and clinics under contract to the department of health and human services and agricultural, technical, or industrial users of prescription drugs shall be subject to inspection [and regulation] by the board of pharmacy with regard to the safe storage, handling, labeling, distribution, and disposal of prescription drugs. The board of pharmacy shall adopt and enforce standards for the safe storage, handling, labeling, distribution, and disposal of prescription drugs. The board of pharmacy shall report to the responsible agency or licensing board infractions found during an inspection, and that agency or board shall review the infractions for appropriate action."

The NH Nurses Association respectfully opposes this language and asks the committee to retain the language is RSA 318:8-a to read as follows:

318:8-a Inspection and Regulation of Certain Users of Prescription Drugs. All ~~physicians, veterinarians, dentists, advanced registered nurse practitioners, physician assistants,~~ **naturopaths**, and clinics under contract to the department of health and human services and agricultural, technical, or industrial users of prescription drugs ~~[shall]~~ **may** be subject to inspection and regulation by the board of pharmacy with regard to the storage, labeling, distribution, and disposal of prescription drugs.

Thank you for considering this testimony



NEW HAMPSHIRE NURSES' ASSOCIATION

Pamela P DiNapoli, PhD, RN, CNL
Executive Director
25 Hall Street Suite 1E
Concord, NH 03301
(603)225-3783
(603) 566-7407 Cell
nhna.ned@gmail.com

Proposed Amendment to HB 444

Amend by substitution section 2 and add a new section 3 of House Bill 444 to read:

1 2 Board of Pharmacy; Inspection and Regulation of Certain Users of Prescription Drugs. Amend
2 RSA 318:8-a to read as follows:

3 318:8-a Inspection and Regulation of Certain Users of Prescription Drugs. All ~~physicians,~~
4 ~~veterinarians, dentists, advanced registered nurse practitioners, physician assistants, and clinics~~
5 under contract to the department of health and human services and agricultural, technical, or
6 industrial users of prescription drugs [~~shall~~] **may** be subject to inspection and regulation by the
7 board of pharmacy with regard to the storage, labeling, distribution, and disposal of prescription
8 drugs.

9 3 Board of Pharmacy; Inspectional Services. Amend RSA 318:9-a to read as follows:

10 318:9-a Inspectional Services. The pharmacy board [~~shall~~] **may** provide inspectional services
11 under this chapter and RSA 318-B:25 to the board of medicine, the board of veterinary medicine,
12 the board of podiatry, the board of registration in optometry, the board of dental examiners, the
13 board of nursing, and the naturopathic board of examiners, ***or other health profession licensing***
14 ***board upon the request of the respective board.***



NEW HAMPSHIRE BOARD OF PHARMACY

7 Eagle Square

Concord, NH 03301

www.oplc.nh.gov/pharmacy

Dear Committee Members,

My name is Helen Pervanas and I am the President of the NH Board of Pharmacy. On behalf of the NH Board of Pharmacy, I would like to submit written testimony in favor of House Bill 444 which is sponsored by Representatives Merchant and Massimilla.

This bill serves to clarify and further define existing statutes pertinent to the practice of pharmacy. I would like to provide written comment on the following RSA amendments.

- RSA 318:1 XXVII: Regarding collaborative practice agreements, the agreement was simplified to read an agreement between the pharmacist and patient's practitioner.
- RSA 318:8-a: Regarding inspection and regulation of certain users of prescription drugs, additional verbiage was added to adopt and enforce standards to promote safe storage, handling, labeling, distribution and disposal of prescription drugs and to also report any infractions to the responsible agency or licensing board identified during inspection.
- RSA 318:38: Regarding pharmacy permits, additional verbiage was added to include the permit holder and pharmacist in-charge to have joint and equal responsibility for the operation and compliance with all pharmacy laws. This allows for additional accountability and promotes patient safety.
- RSA 318:47-a: Regarding prescription labels, verbiage was simplified to labeling all prescription medications dispensed to patients and label to be affixed to the container.
- RSA 314:14-a: Regarding compounded drug labeling, verbiage was added to clarify compounding standards based on the United States Pharmacopeia.

The NH Board of Pharmacy fully supports this bill and RSA amendments. Thank you for your time and efforts.

Most Sincerely,

Helen Pervanas, PharmD, R.Ph.

President, NH Board of Pharmacy

Archived: Wednesday, April 7, 2021 12:48:58 PM
From: HCS
Sent: Wednesday, February 17, 2021 8:56:21 AM
To: [Miriam Simmons](#)
Subject: FW: Plans to Exec?? HB444 Executive Session
Response requested: No
Importance: Normal

From: Carol McGuire <mcguire4house@gmail.com>
Sent: Wednesday, February 17, 2021 8:50 AM
To: HCS <HCS@leg.state.nh.us>
Subject: Re: Plans to Exec?? HB444 Executive Session

Mr Padmore,

The last day to exec HB444 is March 8. It will come up then, or possibly if we meet on March 3 or 4; February 18 or 22 are possible but less likely.

Carol McGuire

On Wed, Feb 17, 2021 at 8:09 AM HCS <HCS@leg.state.nh.us> wrote:

Mr. Padmore,
Currently the bill has not been scheduled on the Calendar for an Exec Session.

However, the Committee may hold Executive Sessions and the Chairman may announce bills from the floor on any date ED&A have posted this wording in the Calendar. "Executive Session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened."

If you would like specific information on plans to address the bill, you should contact the Chairman and Vice Chair of the Committee

Miriam Simmons
Committee Assistant
ED&A

From: Michael Padmore <Michael.Padmore@nhms.org>
Sent: Tuesday, February 16, 2021 7:57 PM
To: HCS <HCS@leg.state.nh.us>
Subject: HB444 Executive Session

Good evening,

I was looking online for the House ED&A committee's staff email but couldn't find anything listed. We are tracking HB444 and wondering if an executive session had been scheduled yet for that bill. Any help would be greatly appreciated!

Thanks,

Mike Padmore


Director of Advocacy

New Hampshire Medical Society

[7 North State St, Concord NH](#)

(603) 858-4744 (cell)

michael.padmore@nhms.org

Archived: Wednesday, April 7, 2021 12:48:58 PM
From: [Dinapoli, Pamela](#)
Sent: Thursday, February 18, 2021 1:15:07 PM
To: ~House Executive Departments and Administration
Subject: HB 444
Importance: Normal
Attachments:
[HB 444.docx](#) 

Good afternoon Committee Members

Please accept this testimony in opposition to language contained in HB 444 to be heard on 2/10/2021 at 2PM

Pamela P DiNapoli, PhD, RN, CNL

Executive Director

25 Hall Street Suite 1E

Concord, NH 03301

(603)225-3783

(603) 566-7407 Cell

nhna.ned@gmail.com

Archived: Tuesday, April 13, 2021 10:44:39 AM
From: Gary Merchant
Sent: Tuesday, February 9, 2021 12:50:59 PM
To: ~House Executive Departments and Administration
Cc: Gary Merchant
Subject: HB 444 Testimony
Response requested: No
Importance: Normal
Attachments:
HB 444 Testimony Revised.pdf ;

Members of the House ED&A committee.

Please find my written testimony to introduce HB 444. I plan not to read the testimony, rather address issues and reasons for making technical changes to RSA 318 when I introduce HB 444.

Regards - Rep. Merchant

Rep. Gary Merchant
NH House of Representatives
Sullivan District 4
gary.merchant@leg.state.nh.us
603-558-1389



Archived: Tuesday, April 13, 2021 10:44:39 AM
From: [Pervanas, Helen C](#)
Sent: Wednesday, February 10, 2021 11:05:04 AM
To: [~House Executive Departments and Administration](#)
Subject: Written comment in support of HB 444
Response requested: No
Importance: Normal
Attachments:
WrittencommentHB444Pervanas.docx ;

Dear Committee Members,
I humbly submit written comments in support of HB 444. Please let me know if you have any questions or require additional information.
Thank you,
Helen Pervanas


...

Helen Pervanas, PharmD, RPh
Associate Professor of Pharmacy Practice
Pharmacy Practice
MCPHS University

1260 Elm Street | Manchester NH 03101
T 603.314.1765
helen.pervanas@mcphs.edu
www.mcphs.edu




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Archived: Tuesday, April 13, 2021 10:44:39 AM
From: [Michael Padmore](#)
Sent: Thursday, February 11, 2021 11:39:07 AM
To: [~House Executive Departments and Administration](#)
Cc: [James Potter](#)
Subject: Proposed Amendment for HB444
Response requested: No
Importance: Normal
Attachments:
[Proposed Amendment to HB 444 \(Section 2\) 2-21 \(1\).pdf](#) 

Good morning,

Ahead of the hearing on HB444, please see the attached proposed amendment for HB444. I've copied NH Medical Society, EVP, James Potter, who plans to address this amendment during his testimony.


Thanks,
Mike Padmore
Director of Advocacy
New Hampshire Medical Society
7 North State St, Concord NH
(603) 858-4744 (cell)
michael.padmore@nhms.org

Archived: Tuesday, April 13, 2021 10:44:39 AM
From: [Michael Padmore](#)
Sent: Thursday, February 11, 2021 1:26:41 PM
To: [~House Executive Departments and Administration](#)
Subject: HB444 Written Testimony
Response requested: No
Importance: Normal
Attachments:
[HB 444 Written Testimony by Dr. David Conway - BOM.pdf](#) 

Good afternoon,

Please see the attached written testimony from Dr. David Conway in opposition to HB444. He was signed up to testify but I'm told he can no longer attend the hearing due to an emergency.

Thanks,
Mike Padmore
Director of Advocacy
New Hampshire Medical Society
7 North State St, Concord NH
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michael.padmore@nhms.org

Archived: Tuesday, April 13, 2021 10:44:39 AM
From: [Dunlap, Sabrina](#)
Sent: Friday, February 12, 2021 9:14:53 AM
To: ~[House Executive Departments and Administration](#); [Carol McGuire](#)
Subject: Comments on HB 444
Response requested: No
Importance: Normal
Attachments:
[Anthem - Comments on HB 444.pdf](#) 

Dear Chairwoman McGuire and Members of the Committee,


On behalf of Anthem, I am submitting comments related to the hearing yesterday on HB 444. I apologize for the tardiness in getting these to you, however, I was not compelled to weigh in until after reflecting on some of the issues and concerns raised in yesterday's hearing.

Sincerely,
Sabrina

[Anthem Blue Cross Blue Shield](#)

Sabrina Dunlap, *Sr. Director, Government Relations*
1155 Elm Street, Ste 200, Manchester, NH 03101-1505
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Archived: Tuesday, April 13, 2021 10:44:39 AM
From: [Dinapoli, Pamela](#)
Sent: Thursday, February 18, 2021 1:15:07 PM
To: ~House Executive Departments and Administration
Subject: HB 444
Response requested: No
Importance: Normal
Attachments:
[HB 444.docx](#) 

Good afternoon Committee Members

Please accept this testimony in opposition to language contained in HB 444 to be heard on 2/10/2021 at 2PM

Pamela P DiNapoli, PhD, RN, CNL

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February 12, 2021

Chairwoman Carol McGuire
Executive Department and Administration Committee
107 North Main Street
Concord, NH 03301

Dear Chairwoman and Members of the House Executive Department and Administration Committee,

I am submitting these post-hearing comments after reflecting on the information that came forth at yesterday's hearing on HB 444, *an act relative to the board of pharmacy*. As Government Relations Director at Anthem, I have only recently become familiar with NH Board of Pharmacy ("the Board") matters that might adversely affect our members' access to infusions when administered in other than a hospital setting.

Given the tenor of yesterday's testimony, it may well be that the bill will be retained, something that Anthem would support. Were the bill to move forward with amendments, the Committee might wish to consider two items:

- (1) The implications of Sec .2 which would insert the word "handling" into RSA 318:8-a.

Veteran Committee members may recall that the Board has continued to contend that its inspection services should include oversight of provider reconstitutions of commercially available prescription drugs such as Remicade, something which has received strong objection from providers. In light of that concern, it would be important that there be clarifying discussion, and perhaps a definition of what "handling" actually means.

- (2) The need for a clearer understanding of just why the Board needs relief from the United States Pharmacopeia Standards.

Interestingly, one of the historic misalignments that the Board had with the Pharmacopeia related directly to the fraught issue of "compounding" vs. "infusion," with the Board deeming "reconstitution" of commercially available drugs as "compounding," and the Pharmacopeia expressly doing the opposite.

Even though a legislative change was made several years ago to expressly clarify and eliminate these reconstitutions from NH's definition of compounding, there have been a number of Board supported legislative and rulemaking initiatives directed at eroding that distinction. HB 444 may not expressly tamper with the aforementioned legislative clarification, but it does raise uncertainty.

I appreciate your understanding in light of my tardiness in providing these comments.

Sincerely,

Sabrina Dunlap
Director of Government Relations
(603) 703-8073
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Rep. Gary Merchant
Sullivan District 4, Claremont
Health, Human Services, and Elderly Affairs
603-558-1389
Gary.merchant@leg.state.nh.us

HB 444

Thank you, Madam Chairwoman, members of the Executive Department and Administration Committee, colleagues, and public members. My name is Rep. Gary Merchant, Sullivan County, District 4, Claremont, Ward 2.

I come before you today to introduce HB 444 that revises individual sections of RSA 318. Based on my ten-year tenure on the Pharmacy Board, the last two years as president of the board, I offer HB 444. The bill has the full support of the Pharmacy Board.

The bill revises five sections of RSA 318, the law that governs pharmacists and pharmacies.

- 318:I (XXVII) Definition of Pharmacy Collaborative Practice Agreements
- 318:8-a Inspections and Regulations of Certain Users of Prescription Drugs
- 318:14-a Compounding
- 318:38 (I) Permits and Fees (and Pharmacist in Charge)
- 318:47-a Prescription Labels

RSA 318:I (XXVII) Definition of Pharmacy Collaborative Practice Agreements. The law requires a written agreement between a pharmacist and the attending practitioner. The contract needs to be signed by the pharmacist, attending practitioner, and patient. Tele-health has created a challenge in obtaining a physical signature from every patient.

Each Physician Assistant has an agreement with a practitioner to practice, yet a patient is not required to review and sign that agreement. I am not aware of any provider referral requiring a patient to sign a document as a Collaborative Agreement. As with any referral, the patient decides to accept or reject a referral, thus granting or withholding their approval. The bill removes the requirement for a patient to sign the Collaborative Agreement.

Using the definition of attending practitioner creates some ambiguity in primary responsibility. Does this include all practitioners or only the patients' primary care provider? Does this include practitioners with the primary responsibility to manage a specific disease and related medication?

Many patients receive care from multiple practitioners, each responsible for a specific disease and related medications. The bill strikes "attending" and inserts "the patient's practitioner" to allow each practitioner who treats a patient to enter into a Collaborative Agreement with a pharmacist.

RSA 318:8-a Inspection and Regulation of Certain Users of Prescription Drugs. The bill retains the Pharmacy Board's authority to regulate through rules the safe storage, handling, labeling, distribution, and disposal of prescription drugs. The Pharmacy Board will continue to inspect non-pharmacies for compliance with regulations; however, in the event of an infraction found during an inspection, the Pharmacy Board reports the violation to the appropriate agency or board responsible for issuing the license. Pharmacists have the knowledge and expertise in the safe storage, handling, labeling, distribution, and disposal of drugs.

RSA 318:47-a Compounding. Members of this committee may remember addressing a compounding issue related to the Pharmacy Board and administering medications within a provider's office. A challenge for the Pharmacy Board was the enforcement of 318:47-a, as the law requires the Pharmacy Board to comply with USP Standards and its definition of compounding, thus the board could not utilize the FDA definition. The solution required the legislative body to draft and pass legislation that separates drug compounding (USP) from drug preparation (FDA).

The proposed revision to RSA 318:47-a allows the board flexibility to base rules on USP Standards and not enforce standards for which the board has no control or prohibit using other organizations' standards that conflict with USP Standards as the FDA definition of compounding.

RSA 318:38 (I) Permits and Fees. The pharmacist-in-charge has the primary responsibility and accountability to the Pharmacy Board; however, this individual has minimal control over resources necessary to safely operate the pharmacy in compliance with Federal and State laws and regulations. The party who controls resources needed to use the pharmacy safely is the pharmacy owner, who has minimal accountability to the Pharmacy Board. This bill aligns responsibility and authority, holding each jointly and equally accountable to the Pharmacy Board to ensure a pharmacy is safe for a pharmacist to practice.

RSA 318:47-a Prescription Labels. The process of filling and dispensing a prescription has dramatically changed from when a single person, a pharmacist, reviewed a prescription, filled and dispensed the medication to the patient. Today, different individuals often perform these steps, thus what name should appear on a prescription label. Of all the actions taken to provide medication to patients, the most critical step for patient safety is the initial one of reviewing and approving a prescription.

A licensed pharmacist must review and approve a prescription, and the bill requires the name or initials of that person on the prescription label.

Thank you for considering my testimony and your time today

Bill as
Introduced

HB 444 - AS INTRODUCED

2021 SESSION

21-0565

10/05

HOUSE BILL **444**

AN ACT relative to the board of pharmacy.

SPONSORS: Rep. Merchant, Sull. 4; Rep. Massimilla, Graf. 1

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill makes various technical changes to the laws governing pharmacies regulated by the pharmacy board.

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 Twenty One

AN ACT relative to the board of pharmacy.

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

1 1 Definitions; Collaborative Pharmacy Practice Agreement. Amend RSA 318:1, XXVII to read as
2 follows:

3 XXVII. "Collaborative pharmacy practice agreement" means a written and signed specific
4 agreement between a pharmacist[, an attending] **and the patient's** practitioner, [~~and the patient or~~
5 ~~patient's authorized representative who has granted his or her informed consent,~~] that provides for
6 collaborative pharmacy practice for the purpose of medication therapy management for the patient.

7 2 Prescriptions; Inspections. Amend RSA 318:8-a to read as follows:

8 318:8-a Inspection and Regulation of Certain Users of Prescription Drugs. All physicians,
9 veterinarians, dentists, advanced registered nurse practitioners, physician assistants, and clinics
10 under contract to the department of health and human services and agricultural, technical, or
11 industrial users of prescription drugs shall be subject to inspection [~~and regulation~~] by the board of
12 pharmacy with regard to the **safe** storage, **handling**, labeling, distribution, and disposal of
13 prescription drugs. **The board of pharmacy shall adopt and enforce standards for the safe**
14 **storage, handling, labeling, distribution, and disposal of prescription drugs. The board of**
15 **pharmacy shall report to the responsible agency or licensing board infractions found**
16 **during an inspection, and that agency or board shall review the infractions for**
17 **appropriate action.**

18 3 Compounding; Standards. Amend RSA 318:14-a, I to read as follows:

19 I. Products that are not commercially available may be compounded for hospital or office use
20 but shall not be resold or dispensed. Nonprescription items may be compounded upon order by a
21 practitioner for sale as long as the labeling complies with RSA 318:47-a and the product is not a copy
22 of, or similar to, prescription or nonprescription products. Except as provided in rules adopted under
23 paragraph V for veterinarians, all compounding shall be done [~~in compliance with the~~] **based on**
24 United States Pharmacopeia **standards** as defined by board of pharmacy rules.

25 4 Pharmacy Permit. Amend RSA 318:38, I to read as follows:

26 I. The board shall, upon application and hearing, issue a permit to maintain and operate a
27 pharmacy to such persons, firms, or corporations as they deem qualified to conduct a pharmacy. The
28 permit shall be issued to the pharmacy in the name of the corporation or the owner of the pharmacy.
29 This permit, to be known as a pharmacy permit, shall certify that the designated pharmacist-in-
30 charge [~~has~~] **and the permit holder have jointly and equally** accepted the responsibility for the
31 safe, effective operation of a pharmacy and compliance with all pharmacy and drug laws or

HB 444 - AS INTRODUCED
- Page 2 -

1 regulations; that the premises named in the permit are a fit place to practice pharmacy including,
2 but not limited to, the compounding and dispensing of medicines upon prescriptions and for the
3 manufacture, sale, and distribution of drugs, medicines, and poisons; and that such premises and
4 acts shall be under the direct supervision of a licensed pharmacist. The holder of a pharmacy permit
5 may keep this pharmacy open at all hours for the compounding, dispensing, and sale of drugs and
6 medicines provided that a pharmacist is present and on duty; except that in an institutional setting,
7 in the absence of a pharmacist, a registered nurse, designated by the institution for this purpose,
8 may enter and obtain from an institutional pharmacy such drugs as are needed in an emergency
9 situation or as may otherwise be provided for in this chapter. The applicant for a pharmacy permit
10 or a renewal thereof shall provide the board with all information it deems necessary for determining
11 the applicant's qualifications to own and operate a pharmacy in the public interest.

12 5 Prescription Labels. Amend RSA 318:47-a to read as follows:

13 318:47-a Prescription Labels. Whenever a [~~pharmacist dispenses a noncontrolled~~] drug **is**
14 ***dispensed to a patient*** pursuant to a prescription, [~~he or she shall affix~~] ***a label shall be affixed***
15 to the container in which such drug is dispensed[~~a label~~] showing at least the name and address of
16 the pharmacy [~~and the name or initials of the dispensing pharmacist or pharmacist in charge~~]; the
17 prescription identification number assigned by the pharmacy; the date dispensed; any directions as
18 may be stated on the prescription; the name of the prescribing practitioner; the name of the patient;
19 all pertinent auxiliary labels; and, unless otherwise indicated by the prescribing physician, dentist,
20 veterinarian, or advanced practice registered nurse, the name, strength, and quantity of the drug
21 dispensed. All drugs dispensed to a patient that have been filled using a centralized prescription
22 processing system shall bear a label containing an identifiable code that provides a complete audit
23 trail of the dispensing of the drug and pharmaceutical care activities. A biological product, as
24 defined in RSA 318:47-dd, I, shall also be labeled as provided in RSA 318:47-dd, VII. No person shall
25 alter, deface, or remove any label so affixed. A compounded drug product shall also be labeled as
26 provided in RSA 318:14-a, II. The compound drug product shall bear the label of the pharmacy
27 responsible for compounding and dispensing the product directly to the patient for administration,
28 and the prescription shall be filed at that pharmacy. Compounded prescription labels shall include
29 the phrase "compounded per subscriber request" or a similar statement on the prescription label or
30 through the use of an auxiliary label attached to the prescription container.

31 6 Effective Date. This act shall take effect 60 days after its passage.