

LEGISLATIVE COMMITTEE MINUTES

HB1390

Bill as Introduced

HB 1390 - AS AMENDED BY THE HOUSE

16Feb2022... 0409h

2022 SESSION

22-2669
05/04

HOUSE BILL **1390**

AN ACT relative to access to language translation services in telemedicine.

SPONSORS: Rep. M. Murray, Hills. 22; Rep. Espitia, Hills. 31; Rep. Query, Hills. 16; Rep. Wazir, Merr. 17; Rep. Grossman, Rock. 18; Rep. Marsh, Carr. 8; Rep. Knirk, Carr. 3; Sen. Kahn, Dist 10; Sen. Prentiss, Dist 5

COMMITTEE: Health, Human Services and Elderly Affairs

AMENDED ANALYSIS

This bill requires language access services for limited-English proficient speakers and deaf or heard of hearing individuals when healthcare services are provided through telemedicine.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 1390 - AS AMENDED BY THE HOUSE

16Feb2022... 0409h

22-2669
05/04

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to access to language translation services in telemedicine.

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

1 1 New Paragraph; Telemedicine; Language Access Services Required. Amend RSA 415-J:3 by
2 inserting after paragraph XIII the following new paragraph:

3 XIV. If a facility is required to ensure meaningful language access to limited-English
4 proficient speakers pursuant to 45 C.F.R. section 92.101 or RSA 354-A, or to deaf or hard of hearing
5 individuals pursuant to 45 C.F.R. section 92.102, RSA 521-A, or RSA 354-A, such access shall be
6 provided regardless of whether services are provided in person or utilizing telemedicine.

7 2 New Paragraph; Medicaid Coverage of Telehealth Services; Language Access Services
8 Required. Amend RSA 167:4-d by inserting after paragraph V the following new paragraph:

9 VI. If a facility is required to ensure meaningful language access to limited-English
10 proficient speakers pursuant to 45 C.F.R. section 92.101 or RSA 354-A, or to deaf or hard of hearing
11 individuals pursuant to 45 C.F.R. section 92.102, RSA 521-A, and RSA 354-A, such access shall be
12 provided regardless of whether services are provided in person or utilizing telemedicine.

13 3 Effective Date. This act shall take effect upon its passage.

HB 1390 - AS AMENDED BY THE SENATE

16Feb2022... 0409h
03/24/2022 1130s

2022 SESSION

22-2669
05/04

HOUSE BILL **1390**

AN ACT relative to access to language translation services in telemedicine.

SPONSORS: Rep. M. Murray, Hills. 22; Rep. Espitia, Hills. 31; Rep. Query, Hills. 16; Rep. Wazir, Merr. 17; Rep. Grossman, Rock. 18; Rep. Marsh, Carr. 8; Rep. Knirk, Carr. 3; Sen. Kahn, Dist 10; Sen. Prentiss, Dist 5

COMMITTEE: Health, Human Services and Elderly Affairs

AMENDED ANALYSIS

This bill requires language access services for limited-English proficient speakers and deaf or heard of hearing individuals when healthcare services are provided through telemedicine.

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.

HB 1390 - AS AMENDED BY THE SENATE

16Feb2022... 0409h
03/24/2022 1130s

22-2669
05/04

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to access to language translation services in telemedicine.

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

- 1 1 Telemedicine and Telehealth Services; Language Access Services. Amend RSA 310-A:1-g, V(b)
2 and (c) to read as follows:
3 (b) Maintain a medical record; ~~and~~
4 (c) Subject to the patient's consent, forward the medical record to the patient's primary
5 care or treating provider, if appropriate; *and*
6 (d) *Provide meaningful language access if the individual is practicing in a*
7 *facility that is required to ensure meaningful language access to limited-English proficient*
8 *speakers pursuant to 45 C.F.R. section 92.101 or RSA 354-A, or to deaf or hard of hearing*
9 *individuals pursuant to 45 C.F.R. section 92.102, RSA 521-A, or RSA 354-A.*
10 2 Effective Date. This act shall take effect upon its passage.

CHAPTER 197
HB 1390 - FINAL VERSION

16Feb2022... 0409h
03/24/2022 1130s

2022 SESSION

22-2669
05/04

HOUSE BILL **1390**

AN ACT relative to access to language translation services in telemedicine.

SPONSORS: Rep. M. Murray, Hills. 22; Rep. Espitia, Hills. 31; Rep. Query, Hills. 16; Rep. Wazir, Merr. 17; Rep. Grossman, Rock. 18; Rep. Marsh, Carr. 8; Rep. Knirk, Carr. 3; Sen. Kahn, Dist 10; Sen. Prentiss, Dist 5

COMMITTEE: Health, Human Services and Elderly Affairs

AMENDED ANALYSIS

This bill requires language access services for limited-English proficient speakers and deaf or heard of hearing individuals when healthcare services are provided through telemedicine.

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.

CHAPTER 197
HB 1390 - FINAL VERSION

16Feb2022... 0409h
03/24/2022 1130s

22-2669
05/04

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to access to language translation services in telemedicine.

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

- 1 197:1 Telemedicine and Telehealth Services; Language Access Services. Amend RSA 310-A:1-g,
2 V(b) and (c) to read as follows:
3 (b) Maintain a medical record; ~~and~~
4 (c) Subject to the patient's consent, forward the medical record to the patient's primary
5 care or treating provider, if appropriate; *and*
6 (d) *Provide meaningful language access if the individual is practicing in a*
7 *facility that is required to ensure meaningful language access to limited-English proficient*
8 *speakers pursuant to 45 C.F.R. section 92.101 or RSA 354-A, or to deaf or hard of hearing*
9 *individuals pursuant to 45 C.F.R. section 92.102, RSA 521-A, or RSA 354-A.*

197:2 Effective Date. This act shall take effect upon its passage.

Approved: June 17, 2022
Effective Date: June 17, 2022

Amendments

Health and Human Services
March 16, 2022
2022-1130s
05/04

Amendment to HB 1390

1 Amend the bill by replacing all after the enacting clause with the following:

2

3 1 Telemedicine and Telehealth Services; Language Access Services. Amend RSA 310-A:1-g, V(b)
4 and (c) to read as follows:

5 (b) Maintain a medical record; ~~and~~

6 (c) Subject to the patient's consent, forward the medical record to the patient's primary
7 care or treating provider, if appropriate; *and*

8 (d) *Provide meaningful language access if the individual is practicing in a*
9 *facility that is required to ensure meaningful language access to limited-English proficient*
10 *speakers pursuant to 45 C.F.R. section 92.101 or RSA 354-A, or to deaf or hard of hearing*
11 *individuals pursuant to 45 C.F.R. section 92.102, RSA 521-A, or RSA 354-A.*

12 2 Effective Date. This act shall take effect upon its passage.

Committee Minutes

SENATE CALENDAR NOTICE
Health and Human Services

Sen Jeb Bradley, Chair
Sen James Gray, Vice Chair
Sen Kevin Avard, Member
Sen Tom Sherman, Member
Sen Rebecca Whitley, Member

Date: March 9, 2022

HEARINGS

Wednesday	03/16/2022
(Day)	(Date)
Health and Human Services	Legislative Office Building 101 9:00 a.m.
(Name of Committee)	(Place) (Time)
9:00 a.m. HB 1327	including diabetes in the conditions listed for eligibility for a service animal.
9:15 a.m. HB 1390	relative to access to language translation services in telemedicine.
9:30 a.m. HB 1659-FN	relative to criminal history background checks for certain health care workers.

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

HB 1327

Rep. Schuett
Rep. Goley
Sen. Whitley

Rep. Moffett
Rep. Rogers
Sen. Carson

Rep. Sullivan
Rep. Booras

Rep. Graham
Rep. Baldasaro

HB 1390

Rep. M. Murray
Rep. Grossman
Sen. Prentiss

Rep. Espitia
Rep. Marsh

Rep. Query
Rep. Knirk

Rep. Wazir
Sen. Kahn

HB 1659-FN

Rep. Abrami
Sen. Reagan

Rep. McMahon
Sen. Ricciardi

Rep. Grote
Sen. Cavanaugh

Rep. Schapiro
Sen. Bradley

Cameron Lapine 271-2104

Jeb Bradley
Chairman

Senate Health and Human Services Committee

Cameron Lapine 271-2104

HB 1390, relative to access to language translation services in telemedicine.

Hearing Date: March 16, 2022

Time Opened: 9:28 a.m.*

Time Closed: 9:48 a.m.

* - The hearing was recessed at 9:33 AM and re-opened at 9:38 AM.

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

Members of the Committee Absent: None

Bill Analysis: This bill requires language access services for limited-English proficient speakers and deaf or heard of hearing individuals when healthcare services are provided through telemedicine.

Sponsors:

Rep. M. Murray

Rep. Espitia

Rep. Query

Rep. Wazir

Rep. Grossman

Rep. Marsh

Rep. Knirk

Sen. Kahn

Sen. Prentiss

Who supports the bill: Representative Megan Murray (Hillsborough County District 22), Wiltrud Mott-Smith, Ryan Donnelly, Cybele Grier, Jeanne Torpey, Janet Lucas, Bonnie Bruno, Peggy Sheets, Anne Thomas, Maureen Ellermann, and Jake Berry (New Futures).

Who opposes the bill: None.

Who is neutral on the bill: Michelle Heaton (NHID), Jonathan Ballard, MD and John Williams, and Heidi Kroll (AHIP).

Summary of testimony presented in support:

Representative Megan Murray

Hillsborough County District 22

- Representative Murray said that HB 1390 creates parity in the statutes regarding transcription and translation services for telemedicine.
- Rep. Murray said that people who receive in-person transcription and translation services deserve the parity if they receive their services remotely via telemedicine.

- Rep. Murray said that there was a potential amendment crafted between departments that other people could speak to.
- Senator Whitley asked if she was aware of situations where people experienced barriers to translation services over telemedicine.
 - Rep. Murray said that it is not reasonable to have, in situations where a patient has limited English proficiency, a family member in the room acting as a translator.
- Senator Avard asked if HB 1390 could limit small practices from providing services.
 - Rep. Murray said that she did not think so, because transcription and translation services are federally required for in-person visits. She said that there are platforms and technology that work through either a phone translator or an on-screen transcription service that the provider would already have for in-person visits.
- Senator Sherman asked, as a doctor who uses LanguageLine, if the technology existed to allow a three-way conversation.
 - Rep. Murray said that it was her understanding that it did.
- Senator Bradley said that HB 1390 passed the House Health, Human Services, and Elderly Affairs Committee (HHSEA) 19-0 on the consent calendar. He asked if Rep. Murray had seen the proposed amendment and if she supported it.
 - Rep. Murray said yes to both.

Summary of testimony presented in opposition: None.

Neutral Information Presented:

Heidi Kroll

America's Health Insurance Plans (AHIP)

- Ms. Kroll said that AHIP is neutral on HB 1390. She said that she was monitoring the bill in the House and the intent of the bill is to require health care facilities that provide transcription and translation services already to also provide them for telehealth.
- Ms. Kroll said that HHSEA put the language of HB 1390 into RSA 151 and the Department of Health and Human Services (DHHS) opposed putting the language in RSA 151.
- Ms. Kroll said that she worked with Tyler Brannen from the New Hampshire Insurance Department (NHID), Representative Jerry Knirk, DHHS, and the Office of Professional Licensure and Certification (OPLC) to find a correct home for the language. She provided the Committee with a draft amendment.
- Ms. Kroll said that the draft amendment puts the language in RSA 310-A:1-g. She said that DHHS and NHID support this relocation. She reiterated that she has no position on HB 1390 other than where the language resides.
- Senator Sherman asked if the draft amendment was a replace-all amendment.
 - Ms. Kroll said that it was.

Michelle Heaton

Health Law and Policy Counsel, NHID

- Ms. Heaton said that she agreed HB 1390's provisions did not belong in the insurance statutes.
- Senator Bradley asked if she had seen a copy of the proposed amendment and if she was good with it.
 - Ms. Heaton said that she had and she was.

John Williams and Jonathan Ballard, MD

Legislative Director and Chief Medical Officer, DHHS

- Mr. Williams said that he appreciates Ms. Kroll's work. He said that the placement of the language in the draft amendment is correct and it is proper to place it under OPLC.
- Dr. Ballard said that there has been an arc towards telemedicine in the last several years. He said that HB 1390 is in conjunction with the rapid increase in the availability of the technology it requires. He said that, during the national state of emergency due to the COVID-19 pandemic, the federal Department of Health and Human Services Office of Civil Rights waived the requirement that all platforms used for telemedicine be Health Insurance Portability and Accountability Act of 1996 (HIPAA) compliant; this allows for the use of services like Apple's FaceTime.
- Dr. Ballard said that that discretion will end when the state of emergency ends, which he expects to be in the second quarter of 2022, all platforms will need to be HIPAA compliant. He said that there are 10 platforms that have come forward and said they are HIPAA compliant, although those have not yet been assessed and confirmed.
- Dr. Ballard said that each of those platforms either has their own language transcription and translation service or has clear instructions on how to patch in a transcription and translation service.
- Mr. Williams said that Ms. Kroll's draft amendment includes cross references to federal CFRs on interpreters for the deaf in courts and the state statute RSA 345-A, relating to the Commission on Human Rights.

Speakers

Senate Remote Testify

Health and Human Services Committee Testify List for Bill HB1390 on 2022-03

Support: 10 Oppose: 0

<u>Name</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>
Mott-Smith, Wiltrud	A Member of the Public	Myself	Support
Donnelly, Ryan	A Member of the Public	Granite State Independent Living	Support
Grier, Cybele	A Member of the Public	Myself	Support
Torpey, Jeanne	A Member of the Public	Myself	Support
Lucas, Janet	A Member of the Public	Myself	Support
BRUNO, BONNIE	A Member of the Public	Myself	Support
Sheets, Peggy	A Member of the Public	Myself	Support
Thomas, Anne	A Member of the Public	Myself	Support
Ellermann, Maureen	A Member of the Public	Myself	Support
Berry, Jake	A Lobbyist	New Futures	Support

Testimony

310-A:1-g Telemedicine and Telehealth Services. –

I. "Telemedicine" means the use of audio, video, or other electronic media for the purpose of diagnosis, consultation, or treatment.

II. "Telehealth" means the use of audio, video, or other electronic media for the purpose of diagnosis, consultation, or treatment.

III. Individuals licensed, certified, or registered pursuant to RSA 137-F; RSA 151-A; RSA 315; RSA 316-A; RSA 317-A; RSA 326-B; RSA 326-D; RSA 326-H; RSA 327; RSA 328-E; RSA 328-F; RSA 328-G; RSA 329-B; RSA 330-A; RSA 330-C; RSA 327-A; RSA 329; RSA 326-B; RSA 318; RSA 328-I; RSA 328-J may provide services through telemedicine or telehealth, provided the services rendered are authorized by scope of practice. Nothing in this provision shall be construed to expand the scope of practice for individuals regulated under this chapter.

IV. Notwithstanding any provision of law to the contrary, an out-of-state healthcare professional providing services by means of telemedicine or telehealth shall be required to be licensed, certified, or registered by the appropriate licensing board within the office of professional licensure and certification. This paragraph shall not apply to out-of-state physicians who provide consultation services pursuant to RSA 329:21, II.

V. An individual providing services by means of telemedicine or telehealth directly to a patient shall:

(a) Use the same standard of care as used in an in-person encounter;

(b) Maintain a medical record; ~~and~~

(c) Subject to the patient's consent, forward the medical record to the patient's primary care or treating provider, if appropriate; and

(d) Provide meaningful language access if the individual is practicing in a facility that is required to ensure meaningful language access to limited-English proficient speakers pursuant to 45 C.F.R. section 92.101 or RSA 354-A, or to deaf or hard of hearing individuals pursuant to 45 C.F.R. section 92.102, RSA 521-A, or RSA 354-A.

VI. Under this section, Medicaid coverage for telehealth services shall comply with the provisions of 42 C.F.R. section 410.78 and RSA 167:4-d.

Voting Sheets

Senate Health and Human Services Committee

EXECUTIVE SESSION RECORD

2021-2022 Session

Bill # HB 1390

Hearing date: 3-16-22

Executive Session date: 3-16-22

Motion of: Committee Amendment Vote: 5-0

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

Motion of: OTPA Vote: 5-0

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

Reported out by: Sen. Bradley

Notes: _____

Committee Report

HEALTH AND HUMAN SERVICES

HB 1390, relative to access to language translation services in telemedicine.

Ought to Pass with Amendment, Vote 5-0.

Senator Jeb Bradley for the committee.

General Court of New Hampshire - Bill Status System

Docket of HB1390

Docket Abbreviations

Bill Title: relative to access to language translation services in telemedicine.*Official Docket of HB1390.:*

Date	Body	Description
12/1/2021	H	Introduced 01/05/2022 and referred to Health, Human Services and Elderly Affairs
1/8/2022	H	Public Hearing: 01/11/2022 02:00 pm LOB 210-211
2/1/2022	H	Executive Session: 01/24/2022 04:00 pm LOB 210-211
2/8/2022	H	Committee Report: Ought to Pass with Amendment #2022-0409h (Vote 19-0; CC)
2/16/2022	H	Ought to Pass with Amendment 2022-0409h: MA VV 02/16/2022 HJ 3
2/23/2022	H	Amendment #2022-0409h : AA VV 02/16/2022 HJ 3
3/1/2022	S	Introduced 02/24/2022 and Referred to Health and Human Services; SJ 5
3/9/2022	S	Hearing: 03/16/2022, Room 101, LOB, 09:15 am; SC 11
3/16/2022	S	Committee Report: Ought to Pass with Amendment #2022-1130s , 03/24/2022; SC 12
3/24/2022	S	Committee Amendment #2022-1130s , AA, VV; 03/24/2022; SJ 6
3/24/2022	S	Ought to Pass with Amendment 2022-1130s, MA, VV; OT3rdg; 03/24/2022; SJ 6
5/13/2022	H	House Concurs with Senate Amendment (Rep. M. Pearson): MA VV 05/12/2022 HJ 13
6/6/2022	S	Enrolled Adopted, VV, (In recess 05/26/2022); SJ 13
6/7/2022	H	Enrolled (in recess of) 05/26/2022 HJ 14
6/22/2022	H	Signed by Governor Sununu 06/17/2022; Chapter 197; 06/17/2022 HJ 14

NH House

NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: HB 1390

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 # 1130s ___ - amendment # _____
- ___ - 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:

Cameron M. Sapiro
Committee Aide

6-29-21
Date

Senate Clerk's Office AK