

April 26, 2012
No. 17A

STATE OF NEW HAMPSHIRE

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**Second Year of the 162nd Session of the
New Hampshire General Court
Legislative**

SENATE CALENDAR ADDENDUM

**THE SENATE WILL MEET IN SESSION ON WEDNESDAY,
MAY 2, 2012, AT 10:00 A.M.**

REGULAR CALENDAR REPORTS

HEALTH AND HUMAN SERVICES

HB 1217, relative to the form for executing advance directives for health care decisions.
Ought to Pass with Amendment, Vote 3-0.
Senator Lambert for the committee.

HB 1617-FN, repealing the certificate of need law.
Interim Study Vote 3-0.
Senator Sanborn for the committee.

HB 1642-FN, relative to destination specialty hospitals.
Ought to Pass with Amendment, Vote 2-1.
Senator Bradley for the committee.

JUDICIARY

HB 217-FN, amending the first and second degree murder statutes and the negligent homicide statute to include causing the death of a fetus.
Ought to Pass with Amendment, Vote 4-1.
Senator Luther for the committee.

HB 536-FN, relative to the natural right to carry a firearm, openly or concealed, without a license.
Ought to Pass with Amendment, Vote 4-1.
Senator Groen for the committee.

HB 1611-FN, repealing certain provisions relative to the sale of pistols and revolvers.
Interim Study, Vote 4-0.
Senator Houde for the committee.

HB 1665-FN, enabling a superior court or circuit court to implement one or more drug courts.
Ought to Pass with Amendment, Vote 4-0.
Senator Luther for the committee.

HB 1699-FN, relative to driving under the influence of drugs.
Ought to Pass with Amendment, Vote 5-0.
Senator Forsythe for the committee.

HB 1723, making technical corrections regarding parental notification prior to abortion.
Ought to Pass, Vote 3-1.
Senator Groen for the committee.

AMENDMENTS

Senate Judiciary
April 27, 2012
2012-1892s
04/01

Amendment to HB 217-FN

Amend RSA 630:1, IV as inserted by section 1 of the bill by replacing it with the following:

IV. As used in this section [~~and RSA 630:1-a, 1-b, 2, 3 and 4~~], the meaning of “another” does not include a [~~foetus~~] *fetus*.

Senate Judiciary
April 27, 2012
2012-1891s
04/01

Amendment to HB 536-FN

Amend the title of the bill by replacing it with the following:

AN ACT relative to carrying a loaded, concealed pistol or revolver without a license.

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

1 Pistols and Revolvers; Carrying Without License. RSA 159:4 is repealed and reenacted to read as follows:

159:4 Carrying Without License.

I. No person shall carry a loaded pistol or revolver concealed upon his or her person, except in his or her dwelling, house, or place of business who:

- (a) Is prohibited from possessing a weapon under any provision of this chapter;
- (b) Is subject to a court order under RSA 173-B which prohibits such person from possessing a dangerous weapon or requires such person to relinquish dangerous weapons in his or her possession;
- (c) Has been convicted of a crime of domestic violence;
- (d) Is currently serving any terms of imprisonment, is on probation or parole, is a fugitive from justice, or is subject to a condition of bail prohibiting possession of a weapon;
- (e) Is less than 18 years of age;
- (f) Is an illegal alien;
- (g) Is an unlawful user of or addicted to any controlled drug or controlled drug analog, as defined in RSA 318-B;
- (h) Has been adjudicated as a mental defective or has been committed to a mental institution;
- (i) Has been discharged from the United States Armed Forces under dishonorable conditions; or
- (j) Having been a citizen of the United States, has renounced his or her citizenship.

II. Whoever violates the provisions of this section shall, for the first such offense, be guilty of a misdemeanor. For the second and for each subsequent violation of the provisions of this section, such person shall be guilty of a class B felony, provided such second or subsequent violation has occurred within 7 years of the previous conviction.

III. Nothing in this section shall restrict the right of a person to carry a loaded pistol or revolver concealed upon his or her person if such person possesses a valid license issued pursuant to RSA 159:6.

2 Pistols and Revolvers; License to Carry. Amend RSA 159:6 to read as follows:

159:6 License to Carry.

I. The selectmen of a town or the mayor or chief of police of a city or some full-time police officer designated by them respectively, upon application of any resident of such town or city, or the director of state police, or some person designated by such director, upon application of a nonresident, shall issue a license to such applicant authorizing the applicant to carry a loaded pistol or revolver in this state for not less than [4] 5 years from the date of issue, if it appears that the applicant has good reason to fear injury to the applicant's person or property or has any proper purpose, and that the applicant is a suitable person to be licensed. Hunting, target shooting, or self-defense shall be considered a proper purpose. The license shall be valid for all allowable purposes regardless of the purpose for which it was originally issued. The license shall be in duplicate and shall bear the name, address, description, and signature of the licensee. The original shall be delivered to the licensee and the duplicate shall be preserved by the people issuing the same for [4] 5 years. When required, license renewal shall take place within the month of the [fourth] **fifth** anniversary of the license holder's date of birth following the date of issuance. The license shall be issued within 14 days after application, and, if such application is denied, the reason for such denial shall be stated in writing, the original of which such writing shall be delivered to the applicant, and a copy kept in the office of the person to whom the application was made. The fee for licenses issued to residents of the state shall be \$10, which fee shall be for the use of the law enforcement department of the town or city granting said licenses; the fee for licenses granted to out-of-state residents shall be [~~\$100~~] **\$20**, which fee shall be for the use of the state. The director of state police is hereby authorized and directed to prepare forms for the licenses required under this chapter and forms for the application for such licenses and to supply the same to officials of the cities and towns authorized to issue the licenses. ***The form shall require no more information than was required on the state of New Hampshire application for a pistol/revolver license, form DSSP 85, as revised in December 2009.*** No other forms shall be used by officials of cities and towns. The cost of the forms shall be paid out of the fees received from nonresident licenses.

II. No photograph or fingerprint shall be required or used as a basis to grant, deny, or renew a license to carry for a resident or nonresident, unless requested by the applicant.

III. The availability of a license to carry a loaded pistol or revolver under this section or under any other provision of law shall not be construed to prohibit the unlicensed transport or carrying of a firearm in a vehicle, or on or about one's person, whether openly or concealed, loaded or unloaded, by a resident, nonresident, or alien, if such individual is not otherwise prohibited by statute from possessing a firearm in the state of New Hampshire.

3 Pistols and Revolvers; Reciprocity. RSA 159:6-d is repealed and reenacted to read as follows:

159:6-d Reciprocity. The director of the division of state police shall negotiate and enter into reciprocal agreements in other jurisdictions to recognize in those jurisdictions the validity of the license issued under RSA 159:6. The director shall apply to every jurisdiction with which New Hampshire does not currently have a reciprocity agreement, at least once every 5 years to obtain recognition in those jurisdictions of the license issued under RSA 159:6. Any such agreement executed shall not expire unless an expiration date is required under the statutes of the reciprocal jurisdiction.

4 Pistols and Revolvers; Exemption. Amend RSA 159:14 to read as follows:

159:14 Exemption. None of the provisions of this chapter shall prohibit an individual not licensed under the provisions thereof who is not engaged in the business of selling pistols or revolvers from selling a pistol or revolver to a person *who is* licensed under this chapter, **to a New Hampshire resident who may lawfully own firearms**, or to a person personally known to him *or her*.

5 Game Animals; Bow and Arrow. Amend RSA 208:5, V to read as follows:

V. The licensee shall not be entitled to carry any firearms while hunting under the provisions of this section, unless such licensee also possesses a valid firearms hunting license, or a valid license to carry firearms issued pursuant to RSA 159, **or is otherwise qualified pursuant to RSA 159:6, III.**

6 Effective Date. This act shall take effect upon its passage.

2012-1891s

AMENDED ANALYSIS

This bill:

I. Increases the length of time for which a license to carry a pistol or revolver is valid, and reduces the fee for nonresidents wishing to obtain a license to carry.

II. Allows a person to carry a loaded, concealed pistol or revolver without a license provided such person is not otherwise prohibited by law.

III. Requires the director of the division of state police to negotiate and enter into agreements with other jurisdictions to recognize in those jurisdictions the validity of the license to carry issued in this state.

IV. Clarifies to whom a pistol or revolver may be sold.

V. Allows a person who has obtained a license to hunt with a bow and arrow to carry a firearm if he or she is otherwise qualified under the license to carry statute.

Health and Human Services

April 27, 2012

2012-1889s

01/04

Amendment to HB 1217

Amend the title of the bill by replacing it with the following:

AN ACT relative to reciprocity of advance directives.

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

1 Advance Directives; Reciprocity. RSA 137-J:17 is repealed and reenacted to read as follows:

137-J:17 Reciprocity. An advance directive, living will, or similar document executed in another state, and valid according to the laws of the state where it was executed, shall be as effective in this state as it would have been if executed according to the laws of this state.

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

2012-1889s

AMENDED ANALYSIS

This bill clarifies reciprocity regarding advance directives executed in other states.

Health and Human Services

April 27, 2012

2012-1890s

01/04

Amendment to HB 1642-FN

Amend the title of the bill by replacing it with the following:

AN ACT relative to destination specialty hospitals and the health services planning and review board, prospectively repealing the certificate of need law, and extending the moratorium on nursing home beds and rehabilitation beds.

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

1 Statement of Purpose. The general court, in an effort to improve the quality of health care and while identifying new economic growth opportunities for New Hampshire, makes the following findings:

I. Health care is among the fastest growing industries both in New Hampshire and nationally and, with the changing demographics of both the state and the nation, will continue to expand greatly in the next decade.

II. Having high end specialty care facilities in New Hampshire will benefit our residents, should they need this level of care.

2 New Paragraph; Certificate of Need; Definition Added. Amend RSA 151-C:2 by inserting after paragraph XV-a the following new paragraph:

XV-b. "Destination specialty hospital" means a for-profit institution with a licensed bed capacity of 50 or fewer which provides diagnostic, therapeutic, treatment, and rehabilitative care services to inpatients and outpatients, which shall include at least a 7 percent representative portion of Medicaid patients and uncompensated care patients, by or under the supervision of physicians, and whose proposed annual patient base is composed of a minimum of 65 percent of patients who reside outside of the state of New Hampshire. This paragraph shall include a for-profit destination specialty hospital meeting the terms required under this paragraph created by a hospital licensed pursuant to RSA 151.

3 Certificate of Need; Exemption Added. Amend RSA 151-C:13, I(h) and (i) to read as follows:

(h) Notwithstanding any other provision of this chapter, a skilled nursing facility distinct part unit established by Androscoggin Valley Hospital or Franklin Regional Hospital in order to qualify as a critical access hospital under 42 U.S.C. Section 1395i-4 and 42 C.F.R. Part 485, Subpart F; provided, that the number of beds in the skilled nursing facility distinct part unit shall not exceed the hospital's existing skilled nursing patient capacity. For purposes of this subparagraph, the term "existing skilled nursing patient capacity" means with respect to each month, the number of skilled nursing patient days for such month divided by the number of days in such month, and shall be the highest such number from the 12-month period ending immediately prior to the filing of the federal request for approval of the distinct part unit; provided, however, that the number determined under this subparagraph shall not exceed 10 beds; [and]

(i) Acute care centers established, operated, or designated by the department pursuant to RSA 141-C:26; **and**

(j) Destination specialty hospitals as defined in RSA 151-C:2, XV-b.

4 Health Services Planning and Review Board. RSA 151-C:3, I-IV are repealed and reenacted to read as follows:

I.(a) There is hereby established a health services planning and review board composed of the following members:

(1) The commissioner of the department of health and human services, or a designee whose occupation is not in the delivery of health care services, who has no fiduciary obligation or financial interest in any

health care facility or health care insurer licensed or regulated by this state, and who is not related in his or her immediate family to anyone who is involved in the delivery of health care services or health insurance.

(2) The commissioner of the department of insurance, or a designee whose occupation is not in the delivery of health care services, who has no fiduciary obligation or financial interest in any health care facility or health care insurer licensed or regulated by this state, and who is not related in his or her immediate family to anyone who is involved in the delivery of health care services or health insurance.

(3) Three consumers, each from a different region of the state, appointed by the governor and council. For the purposes of this subparagraph, "consumer" means an individual whose occupation is not in the delivery of health care services, who has no fiduciary obligation or financial interest in any health care facility or health care insurer licensed or regulated by this state, and who is not related in his or her immediate family to anyone who is involved in the delivery of health care services or health insurance.

(b) The commissioner of the department of health and human services, or designee, and the commissioner of the department of insurance, or designee, shall serve as the only permanent members of the board. All other members of the board shall serve 3-year terms. Members of the board shall not serve more than 2 full consecutive terms.

II. No consumer member shall be appointed to or shall serve on the board who also serves on any board of any health care facility or health care insurer licensed or regulated in this state.

III. A member of the board may resign upon written notice to the governor. The governor shall appoint a replacement to fulfill the unexpired term. A member of the board may be discharged pursuant to RSA 4:1.

IV. The commissioner of the department of health and human services, or designee, shall serve as chairman of the board.

5 New Section; Duties and Powers of the Board. Amend RSA 151-C by inserting after section 3 the following new section:

151-C:3-a Duties and Powers of the Board.

I. The primary function of the board shall be to act in a health care planning capacity. In that capacity, the board shall:

(a) Determine and evaluate the sufficiency of the existing supply of health care professionals, services, and facilities. Such evaluation shall include an assessment of health resources in each county, and in the state as a whole.

(b) Determine services that are likely to be overused if excess capacity is available.

(c) Determine services that are likely to benefit from open competition.

(d) Determine services for which a minimum number of procedures is required or recommended in order to maintain institutional competency.

(e) Determine services for which excess capacity currently exists.

(f) Determine services for which insufficient capacity currently exists.

(g) Annually develop projections of services and utilization of services looking forward at least 5 years from the date of the projection.

(h) Annually publish a list of the top 10 most needed and undersupplied services or facilities on a statewide basis.

(i) Annually publish a list of the top 10 most oversupplied services or facilities on a statewide basis.

(j) Conduct public hearings and invite testimony as necessary to facilitate its planning functions.

(k) Develop metrics to access information on the quality of patient outcomes from New Hampshire medical providers who are subject to the certificate of need process.

(l) Develop standards of transparency for provider costs so that patients have an opportunity to realistically compare provider costs.

II. The secondary function of the board shall be to accept applications for, and issue certificates of need, pursuant to this chapter. In that capacity, the board shall utilize data and information developed pursuant to its primary function as defined in paragraph I.

6 Commission on Health Care Cost Containment. Amend RSA 21-S:3, I-IV to read as follows:

I. "Ambulatory surgical facility" means [~~"ambulatory surgical facility" as defined in RSA 151-C:2, I]~~ ***a health care facility or a portion of a health care facility which provides surgical treatment to patients not requiring hospitalization, and does not include the offices of private physicians or dentists, whether in individual or group practices.***

II. "Commission" means the New Hampshire commission on health care cost containment, established in RSA 21-S:2.

III. "Health carrier" means any entity subject to the insurance laws and rules of this state, or subject to the jurisdiction of the commissioner, that contracts or offers to provide, deliver, arrange for, pay for, or reimburse any of the costs of health services, including an insurance company, a health maintenance organization, a nonprofit health services corporation, or any other entity providing health coverage.

IV. "Hospital" means [~~"hospital" as defined in RSA 151-C:2, but not including governmental facilities]~~ ***an institution which is engaged in providing to patients, under supervision of physicians, diagnostic and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or rehabilitation services for the rehabilitation of such persons. The term "hospital" includes psychiatric and substance abuse treatment hospitals. The term "hospital" does not include governmental facilities.***

7 Health Care Commission. Amend RSA 21-S:8, II to read as follows:

II. The fund shall be capitalized through a one-time assessment administered by the department of administrative services. The assessment shall be allocated 50 percent to health carriers, as defined in RSA 420-G:2, with at least 1,000 covered lives in the state, in proportion to gross premiums written, and 50 percent to hospitals[~~, as defined in RSA 151-C:2, XX,~~] and ambulatory surgical facilities[~~, as defined in RSA 151-C:2, I,~~] in proportion to net operating revenue. The total amount of the assessment shall be \$250,000. The department of health and human services and the insurance department shall each certify to the department of administrative services the allocated assessment for each affected health carrier, hospital, and ambulatory surgical facility by August 1, 2010.

8 Data Review. Amend RSA 126:26 to read as follows:

126:26 Data Review. The department of health and human services shall [~~provide access, without restriction, to the data collected under RSA 126:25 to the health services planning and review board. The department shall~~] prepare a report ***relative to the data collected under RSA 126:25, I*** on or before November 15, 1996, and annually thereafter, to the speaker of the house of representatives and president of the senate. The report shall contain, but not be limited to, an analysis and evaluation of the data collected and recommendations for improved efficiencies and for health care cost containment. The department of health and human services is also authorized to prepare periodic reports on price and utilization of health services for the purpose of encouraging competition.

9 Reference Deleted. Amend the introductory paragraph of RSA 126:28 to read as follows:

Notwithstanding any other provision of law, all information required to be filed under this subdivision[~~, with the exception of confidential commercial and financial information as defined in RSA 151-C:2,~~] shall be made available:

10 Reference Changed. Amend RSA 126:29, IV to read as follows:

IV. In addition to any other penalties provided by law, any provider required to provide data under RSA 126:25, [H] ***I***, who willfully fails to comply with the provisions of this subdivision shall be subject to a civil penalty of \$50 for each day of noncompliance, which shall not be reimbursable by any commercial insurer, nonprofit health services corporation, health maintenance organization, or multiple employer welfare arrangement as provided in RSA 415, 420-A, 420-B, and 415-E.

11 Reference Deleted. Amend RSA 126:30 to read as follows:

126:30 User Fees. Any person[~~, other than those covered by the fee provisions of RSA 151-C:15, I,~~] requesting copies of data or statistical information filed with the department of health and human services under RSA 126 or RSA 141-B shall pay to the department a fee established by the commissioner of health and human services pursuant to RSA 126:27, IV. The fee shall reflect the full costs of preparing the data for release, including the cost of personnel time, computer and any related expenses associated with fulfilling

the request. Fees paid under this section shall be deposited into a revolving account which shall not lapse and shall be used in administering the responsibilities of the department of health and human services under this subdivision.

12 Acute Care Centers; Reference Deletion. Amend RSA 141-C:26 to read as follows:

141-C:26 Acute Care Centers. The commissioner, with the written approval of the governor, may establish, operate, or authorize the operation of temporary acute care centers for the purpose of the delivery of acute medical services to persons who would normally require admission to an acute care hospital, when there is a public health incident as defined in RSA 508:17-a, II(c) and when the acute care hospitals in the area do not have the physical and human resources necessary to meet the demand or anticipated demand for medical care. Any such facility so established or designated shall be exempt from the provisions of RSA 151 [~~and RSA 151-C~~]. The commissioner shall adopt rules, pursuant to RSA 541-A, regarding the facility and staffing requirements, screening and admission criteria, payment and reimbursements, clinical standards, recordkeeping, and discharge criteria for acute care centers. In adopting such rules, the commissioner shall take into consideration, to the extent feasible, the rights and responsibilities of patients set forth in RSA 151:21. For purposes of immunity, actions taken pursuant to this section shall be considered an emergency management function under RSA 21-P:41, I.

13 Definition Clarified. Amend RSA 151:2, I(a) to read as follows:

(a) Hospitals, [~~as defined in RSA 151-C:2,~~] and infirmaries or health services maintained by an educational institution. ***For the purposes of this subparagraph “hospital” means an institution which is engaged in providing to patients, under supervision of physicians, diagnostic and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or rehabilitation services for the rehabilitation of such persons. The term “hospital” includes psychiatric and substance abuse treatment hospitals.***

14 Hospital Rates for Self-Pay Patients; Reference Deletion. Amend RSA 151:12-b to read as follows:

151:12-b Hospital Rates for Self-Pay Patients. When billing self-pay patients for a service rendered, a hospital[~~, as defined in RSA 151-C:2,~~] shall accept as payment in full an amount no greater than the amount generally billed and received by the hospital for that service for patients covered by health insurance. A hospital shall determine the amount generally billed to health carriers in a manner consistent with Section 9007 of the Patient Protection and Affordable Care Act of 2009. A hospital shall provide written notice to a self-pay patient in advance of providing a service and at the time the service is billed regarding the requirements under this section. ***For the purposes of this section “hospital” means an institution which is engaged in providing to patients, under supervision of physicians, diagnostic and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or rehabilitation services for the rehabilitation of such persons. The term “hospital” includes psychiatric and substance abuse treatment hospitals.***

15 Disclosure of Information; Hospitals and Physician Hospital Organizations; Reference Deletion. Amend RSA 151:31, I to read as follows:

I.~~(a)~~ Hospitals[~~, as defined in RSA 151-C:2,~~] shall make an annual report, beginning on November 1, 2000, to the attorney general including the following information:

~~[(a)]~~ **(1)** The hospital’s financial relationships with physician hospital organizations.

~~[(b)]~~ **(2)** Number and type of providers employed by the hospital, and any affiliates, as defined in RSA 541-C:2, II, and contracting with or through physician hospital organizations.

~~[(c)]~~ **(3)** Frequency of contract negotiations with providers and physician hospital organizations.

~~[(d)]~~ **(4)** The number of primary care physicians and specialty care physicians, by specialty, that are employed by each hospital or affiliate.

~~[(e)]~~ **(5)** The number of primary care physicians and specialty care physicians, by specialty, that are members of the hospital’s active medical staff.

~~[(f)]~~ **(6)** An organizational chart showing the corporate structure of the hospital and any affiliates including a description of the type of services provided by each entity.

~~[(g)]~~ **(7)** A list of physician practices that are owned by the hospital and its affiliates, or which contract with the hospital and any affiliates for the provision of professional services.

~~(h)~~ (8) A copy of the policy adopted by the hospital, and any affiliates, requiring physicians employed by such hospital to notify their patients when they are referring a patient for professional services to be provided by a physician employed by the same hospital or affiliate. The policy shall also expressly state that no physician employed by the hospital or any affiliate is required or in any way obligated to refer patients to physicians also employed or under contract with the hospital or any affiliate.

(b) For the purposes of this section “hospital” means an institution which is engaged in providing to patients, under supervision of physicians, diagnostic and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or rehabilitation services for the rehabilitation of such persons. The term “hospital” includes psychiatric and substance abuse treatment hospitals.

16 Definition Clarified. Amend RSA 153-A:2, XI to read as follows:

XI. “Facility” means a hospital as defined in RSA ~~[151-C:2, XX]~~ **151:2, I(a)**.

17 Reference Clarification. Amend RSA 161-J:2, II(d) to read as follows:

(d) A hospital [as defined in RSA 151-C:2, XX] which means an institution which is engaged in providing to patients, under supervision of physicians, diagnostic and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or rehabilitation services for the rehabilitation of such persons. The term “hospital” includes psychiatric and substance abuse treatment hospitals.

18 Reference Deleted. Amend RSA 195-D:3, XII to read as follows:

XII. “Nursing home,” notwithstanding any other provision of law to the contrary, means any nonprofit or charitable institution or organization, public or private, which is exempt from federal taxation pursuant to section 501 of the United States Internal Revenue Code of 1986 as amended, and which is engaged in the operation of, or formed for the purpose of operating, a facility in which nursing care, sheltered care, intermediate care, life-care or continuing care, and medical services are prescribed by or performed under the general direction of persons licensed to practice medicine or surgery in New Hampshire, and in whole or in part is, or shall be upon completion, ~~[(a)] licensed as a residential care facility under RSA 151:2, I(e) or [(b) can be upon receipt of a certificate of need under RSA 151-C]~~ licensed as a nursing home under the laws of New Hampshire.

19 References Deleted. Amend RSA 281-A:2, XII-b to read as follows:

XII-b. “Health care provider” as used in this chapter includes doctors, chiropractors, rehabilitation providers, health services ~~[as defined in RSA 151-C:2, XVIII]~~, health care facilities ~~[as defined in RSA 151-C:2, XV-a]~~, and health maintenance organizations ~~[as defined in RSA 151-C:2, XVI]~~. ***For the purposes of this paragraph:***

(a) “Health services” means clinically related diagnostic, treatment, or rehabilitative services, as well as preventive services, and includes, without limitation, alcohol, drug abuse, and mental health services.

(b) “Health care facility” means hospitals, ambulatory surgical facilities, specialty hospitals, and licensed nursing homes including all services and property owned by such. Health care facilities shall include facilities which are publicly or privately owned or for-profit or not-for-profit, and which are licensed or required to be licensed in whole or in part by the state.

(c) “Health maintenance organization” means a public or private organization, organized under the laws of any state or the federal government which:

(1) Provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services: usual physician services, hospitalization, laboratory, x-ray, emergency and preventive services, and out-of-area coverage;

(2) Is compensated, except for co-payments, for the provision of the basic health care services listed in subparagraph (c)(1) to enrolled participants on a predetermined periodic basis without regard to the date on which health care services are provided; a predetermined periodic basis shall be fixed without regard to the frequency, extent, or kind of health care service actually provided; and

(3) Provides physician services primarily:

(A) Directly through physicians who are either employees or partners of such organization;

(B) Through arrangements with individual physicians or one or more groups of physicians organized in a group practice or individual basis; or

(C) A combination of (A) and (B), as provided herein.

20 Reference Changed. Amend RSA 318:29, V(i) to read as follows:

(i) Any ownership or control of an ownership interest of a pharmacy within the state by an individual licensed to prescribe medicine, or a corporation, professional association or partnership consisting of such prescriber or prescriber's immediate family members, except such corporations as are expressly exempt from income taxation under section 501(c)(3) of the United States Internal Revenue Code. This shall not include ownership of investment securities purchased by the practitioner on terms available to the general public and which are publicly traded. This subparagraph shall not apply to the ownership or control of an ownership interest of an institutional pharmacy operated within the state by or for hospitals, as defined in RSA ~~[151-C:2, XX]~~ **151:2, I(a)**, licensed by the state pursuant to RSA 151.

21 References Deleted. Amend RSA 508:18 to read as follows:

508:18 Liability Limited; Health Care Facilities and Personnel.

I. No health care facility **licensed under RSA 151**, licensed physician, registered nurse, certified physician's assistant or qualified medical technician or medical technologist ordered by a law enforcement officer to perform a test, medical examination or procedure on a person in the custody of such officer, shall be held liable for any damage arising out of the performance of such test, examination, or procedure, if the test, examination, or procedure is performed with ordinary care. Nothing in this section shall be construed to legalize an otherwise illegal test, examination or procedure insofar as the law enforcement agency and any employee thereof is concerned.

II. For purposes of this section, "health care facility" means ~~["health care facility" as defined in RSA 151-C:2, XV-a]~~ **hospitals, ambulatory surgical facilities, specialty hospitals, and licensed nursing homes including all services and property owned by such. Health care facilities shall include facilities which are publicly or privately owned or for-profit or not-for-profit, and which are licensed or required to be licensed in whole or in part by the state.**

22 Repeal. The following are repealed:

I. RSA 126:25, II, relative to a plan developed by the health services planning and review board.

II. RSA 151-C, relative to certificate of need review of proposed new institutional health services.

III. Sections 6-21 of this act relative to references to RSA 151-C.

23 Certificate of Need; Nursing Home Beds; Rehabilitation Beds; Moratorium Extended. Amend RSA 151-C:4, III(a) to read as follows:

III.(a) No new certificate of need shall be granted by the board for any nursing home, skilled nursing facility, intermediate care facility, or rehabilitation facility from the effective date of chapter 310, laws of 1995, department of health and human services reorganization act, through the period ending June 30, ~~[2012]~~ **2014**. This moratorium shall also apply to new certificates of need regarding any rehabilitation bed in any type of facility, including rehabilitation hospitals and facilities offering comprehensive rehabilitation services. However, a certificate of need shall be issued for replacement or renovation of existing beds as necessary to meet life safety code requirements or to remedy deficiencies noted in a licensing inspection pursuant to RSA 151 or state survey and certification process pursuant to titles XVIII and XIX of the Social Security Act. In addition, a certificate of need may be issued for construction or renovation as necessary to repair or refurbish an existing facility, or to accommodate additional beds obtained by transfer to an existing facility. In the case of repair, refurbishment, or transferred beds, the resulting costs in excess of the current capital expenditure threshold as adjusted for inflation pursuant to RSA 151-C:5, II(f)(1) shall not be reflected in any state Medicaid rate. Any application for a certificate of need under this subparagraph shall indicate whether it is for a life safety code requirement or to remedy deficiencies noted in a licensing inspection or whether it is for repair or refurbishment of an existing facility or for transferred beds. If the application is approved, it shall be deemed that the board has agreed with the indicated reason for such application.

24 Effective Date.

I. Sections 4 and 5 of this act shall take effect January 1, 2013.

II. Sections 6-22 of this act shall take effect January 1, 2018.

III. The remainder of this act shall take effect 60 days after its passage.

2012-1890s

AMENDED ANALYSIS

This bill:

I. Exempts destination specialty hospitals from the certificate of need process.

II. Changes the membership of the health services planning and review board and clarifies the duties and powers of the board.

III. Repeals the certificate of need law on January 1, 2018.

IV. Extends the moratorium on nursing home beds and rehabilitation beds until June 30, 2014.

Senate Judiciary

April 27, 2012

2012-1893s

09/04

Amendment to HB 1665-FN

Amend RSA 490-G:2, III as inserted by section 1 of the bill by replacing it with the following:

III. A person sentenced by a drug court may, at least one year after successful completion of all programs and conditions imposed by the drug court, petition for annulment of the charges, arrest, conviction, and sentence that relate to such person's entry into the drug court.

Senate Judiciary

April 26, 2012

2012-1875s

03/04

Amendment to HB 1699-FN

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

1 Chemical Substance. Amend RSA 261:180, III to read as follows:

III. The commissioner, when suspending a driver's license or privilege to drive because the driver is an habitual offender or has been convicted of negligent homicide involving the use of a motor vehicle, manslaughter involving the use of a motor vehicle, a subsequent offense of driving or attempting to drive under the influence of intoxicating liquor or any controlled drug, ***prescription drug, over-the-counter drug, or any substance having the property of releasing toxic vapors used for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulled senses of the nervous system, which can impair a person's ability to drive*** under RSA 265-A:2, I, or aggravated driving while intoxicated or attempted aggravated driving while intoxicated under RSA 265-A:3, shall also revoke the registration of any vehicle registered to the individual whose license is being revoked or suspended, for the period of revocation or suspension of the license or privilege to drive.

2 Chemical Substance. Amend RSA 265-A:2 to read as follows:

265-A:2 Driving or Operating Under Influence of Drugs or Liquor; Driving or Operating With Excess Alcohol Concentration.

I. No person shall drive or attempt to drive a vehicle upon any way or operate or attempt to operate an OHRV:

(a) While such person is under the influence of intoxicating liquor or any controlled drug, ***prescription drug, over-the-counter drug, or any substance having the property of releasing toxic vapors used for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulled senses of the nervous system, which impairs a person's ability to drive*** or any combination of intoxicating liquor and controlled drugs, ***prescription drugs, over-the-counter drugs,***

or any substance having the property of releasing toxic vapors used for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulled senses of the nervous system, which impair a person's ability to drive; or

(b) While such person has an alcohol concentration of 0.08 or more or in the case of a person under the age of 21, 0.02 or more.

II. No person shall operate or attempt to operate a boat while under the influence of intoxicating liquor or a controlled drug, *prescription drug, over-the-counter drug, or any substance having the property of releasing toxic vapors used for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulled senses of the nervous system, which impairs a person's ability to drive* or any combination of intoxicating liquor and a controlled drug or drugs, *prescription drug or drugs, over-the-counter drug or drugs, or any substance or substances having the property of releasing toxic vapors used for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulled senses of the nervous system, which impair a person's ability to drive* or while such person has an alcohol concentration of 0.08 or more or in the case of persons under the age of 21, 0.02 or more.

3 Chemical Substance. Amend the introductory paragraph of RSA 265-A:3, I to read as follows:

I. While under the influence of intoxicating liquor or any controlled drug, *prescription drug, over-the-counter drug, or any substance having the property of releasing toxic vapors used for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulled senses of the nervous system, which impairs a person's ability to drive* or any combination of intoxicating liquor and controlled drug or drugs, *prescription drug or drugs, over-the-counter drug or drugs, or any substance having the property of releasing toxic vapors used for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulled senses of the nervous system, which impair a person's ability to drive* and, at the time alleged:

4 Chemical Substance. Amend RSA 265-A:4 to read as follows:

265-A:4 Implied Consent of Driver or Operator to Submit to Testing to Determine Alcohol Concentration. Any person who drives, operates, or attempts to operate an OHRV, drives or attempts to drive a vehicle upon the ways of this state, or operates or attempts to operate a boat upon the public waters of the state shall be deemed to have given consent to physical tests and examinations for the purpose of determining whether such person is under the influence of intoxicating liquor or controlled drugs, *prescription drugs, over-the-counter drugs, or any substances having the property of releasing toxic vapors used for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulled senses of the nervous system, which impair a person's ability to drive* and to a chemical, infrared molecular absorption, or gas chromatograph test or tests of any or all of any combination of the following: blood, urine, or breath, for the purpose of determining the controlled drug, *prescription drug, over-the-counter drug, or any substance having the property of releasing toxic vapors used for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulled senses of the nervous system, which impairs a person's ability to drive* content of such person's blood or alcohol concentration if arrested for any offense arising out of acts alleged to have been committed while the person was driving, operating, attempting to operate, or in actual physical control of an OHRV, driving, attempting to drive, or in actual physical control of a vehicle, or operating, attempting to operate, or in actual physical control of a boat while under the influence of intoxicating liquor or controlled drugs, *prescription drugs, over-the-counter drugs, or any substances having the property of releasing toxic vapors used for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulled senses of the nervous system, which impair a person's ability to drive* or while having an alcohol concentration in excess of the statutory limits contained in RSA 265-A:2 or RSA 265-A:3. The test or tests shall be administered at the direction of a law enforcement officer, peace officer, or authorized agent having reasonable grounds to believe the person to have been driving, operating, attempting to operate, or in actual physical control of an OHRV, driving or in actual physical control of a vehicle, or operating or in actual physical control of a boat while under the influence of intoxicating liquor or controlled drugs, *prescription drugs, over-the-counter drugs, or any substances having the property of releasing toxic vapors used for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulled senses of the nervous system, which impair a person's ability to drive* or while having an alcohol concentration of 0.08 or more, or in the case of a person under the age of 21, 0.02 or more. A copy of the report of any such test shall be furnished by the law enforcement agency to the person tested within 48 hours of receipt of the report by the agency by certified mail directed to the address shown

on such person's license or other identification furnished by the person. Results of a test of the breath shall be furnished immediately in writing to the person tested by the certified breath testing operator conducting the test. When the incident involves an accident resulting in death or serious bodily injury to any person as provided in RSA 265-A:16, the prerequisites of RSA 265-A:8 shall not apply. Properly trained personnel of the United States Coast Guard may arrest and conduct tests on persons who are believed to be under the influence of intoxicating liquor or controlled drugs, ***prescription drugs, over-the-counter drugs, or any substances having the property of releasing toxic vapors used for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulled senses of the nervous system, which impair a person's ability to drive*** or a combination thereof, and who are in physical control of a boat operating upon the public coastal waters of this state.

5 Chemical Substance. Amend RSA 265-A:5, II to read as follows:

II. All such blood and urine tests made under the direction of a law enforcement officer, authorized agent, or peace officer shall be conducted in the forensic science laboratory of the department of safety established in RSA 106-B:2-a or, in the case of blood and urine samples to be tested for the presence of controlled drugs, ***prescription drugs, over-the-counter drugs, or any substances having the property of releasing toxic vapors used for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulled senses of the nervous system, which impair a person's ability to drive*** in any other laboratory capable of conducting such tests which is licensed under the laws of this or any other state and which has also been licensed by the U.S. Department of Health and Human Services under the Clinical Laboratory Improvement Act of 1988, as amended.

6 Chemical Substance. Amend RSA 265-A:5, V(a) to read as follows:

(a) Methods and procedures for the testing of blood, urine, and breath to determine alcohol concentration and controlled drug, ***prescription drug, over-the-counter drug, or any substance having the property of releasing toxic vapors used for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulled senses of the nervous system, which impairs a person's ability to drive*** content of a person's blood;

7 Chemical Substance. Amend RSA 265-A:9 to read as follows:

265-A:9 Effect of Evidence of Alcohol Concentration Test. The provisions of this subdivision do not limit the introduction of any other competent evidence bearing on the question of whether a person charged with the violation of RSA 265-A:2, I(a), or RSA 265-A:3, I, was under the influence of intoxicating liquor or any controlled drug, ***prescription drug, over-the-counter drug, or any substance having the property of releasing toxic vapors used for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulled senses of the nervous system, which impairs a person's ability to drive***.

8 Chemical Substance. Amend RSA 265-A:10 to read as follows:

265-A:10 Effect of Evidence of Refusal to Take Alcohol Concentration Test. If a person refuses to submit to a test as provided in RSA 265-A:4, such refusal may be admissible into evidence in a civil or criminal action or proceeding arising out of an act alleged to have been committed by that person while driving, operating, attempting to operate, or in actual physical control of an OHRV, driving, attempting to drive, or in actual physical control of a vehicle, or operating, attempting to operate, or in actual physical control of a boat while under the influence of intoxicating liquor or any controlled drug, ***prescription drug, over-the-counter drug, or any substance having the property of releasing toxic vapors used for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulled senses of the nervous system, which impairs a person's ability to drive***.

9 Chemical Substance. Amend RSA 265-A:11 to read as follows:

265-A:11 Evidence.

I. Upon complaint, information, indictment, or trial of any person charged with the violation of RSA 265-A:2, the court may admit evidence of physical testing of the defendant for being under the influence of intoxicating liquor or controlled drugs, ***prescription drugs, over-the-counter drugs, or any substances having the property of releasing toxic vapors used for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulled senses of the nervous system, which impair a person's ability to drive*** as provided in RSA 265-A:4, and of the controlled drug, ***prescription drug, over-the-counter drug, or substance having the property of releasing toxic vapors used for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulled senses***

of the nervous system, which impairs a person's ability to drive content of the defendant's blood and the defendant's alcohol concentration, as shown by a test of his or her breath, blood, or urine as provided in RSA 265-A:4. Evidence that there was, at the time alleged, an alcohol concentration of 0.03 or less is prima facie evidence that the defendant was not under the influence of intoxicating liquor. Evidence that there was, at the time alleged, an alcohol concentration of more than 0.03 and less than 0.08 is relevant evidence but is not to be given prima facie effect in indicating whether or not the defendant was under the influence of intoxicating liquor, but such fact may be considered with other competent evidence in determining the guilt or innocence of the defendant. Evidence that there was, at the time alleged, an alcohol concentration of 0.08 or more is prima facie evidence that the defendant was under the influence of intoxicating liquor. In addition, evidence that there was, at the time alleged, an alcohol concentration of 0.08 or more shall, in conjunction with the evidence otherwise required by RSA 265-A:2, I(b) of driving or attempting to drive a vehicle upon a way, constitute a separate offense under RSA 265-A:2, I(b); and evidence that there was, at the time alleged, an alcohol concentration of 0.08 or more shall, in conjunction with the evidence otherwise required by RSA 265-A:3, II of driving or attempting to drive a vehicle upon a way and of one or more of the circumstances specified in RSA 265-A:3, II (a), (b), (c), and (d) constitute a separate offense under RSA 265-A:3, II; and evidence that there was, at the time alleged, an alcohol concentration of 0.16 or more shall, in conjunction with the evidence otherwise required by RSA 265-A:3, III of driving or attempting to drive a vehicle upon a way, constitute a separate offense under RSA 265-A:3, III.

II. Upon complaint, information, indictment, or trial of any person charged with a violation of the provisions of RSA 265-A:2, II relative to the operation of boats by a person under the influence of intoxicating liquor or a controlled drug, **prescription drug, over-the-counter drug, or any substance having the property of releasing toxic vapors used for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulled senses of the nervous system, which impairs a person's ability to drive** the court may admit evidence of the defendant's alcohol concentration at the time alleged, as shown by a chemical, infrared molecular absorption, or gas chromatograph test or tests of his or her breath, urine, or blood. Evidence that there was, at the time alleged, an alcohol concentration of 0.08 or more, is prima facie evidence that the defendant was under the influence of intoxicating liquor. Evidence that the defendant had, at the time alleged, an alcohol concentration of more than 0.03 and less than 0.08 is relevant evidence and may be considered with other competent evidence in determining whether or not the defendant was under the influence of intoxicating liquor. Evidence that the defendant had, at the time alleged, an alcohol concentration of 0.03 or less is prima facie evidence that the defendant was not under the influence of intoxicating liquor.

10 Chemical Substance. Amend RSA 265-A:12, V to read as follows:

V. Any person who is arraigned on a charge arising under RSA 265-A:2, RSA 265-A:3, or RSA 265-A:43 shall file, within 10 days of such person's receipt of the results of any toxicology test administered to such person for the presence of any controlled drug, **prescription drug, over-the-counter drug, or any substance having the property of releasing toxic vapors used for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulled senses of the nervous system, which impairs a person's ability to drive**, a notice in said court requiring the attendance of the certifying scientist. Failure to file notice shall be deemed a waiver to require attendance of the certifying scientist at trial. The official report of the test issued pursuant to RSA 265-A:4 shall be deemed conclusive evidence of the conduct of the result of such test.

11 Chemical Substance. Amend RSA 265-A:14, IV(a) to read as follows:

(a) That the authorized agent or peace officer had reasonable grounds to believe the arrested person had been operating, had been attempting to operate, or was in actual physical control of a boat upon the public waters of this state while under the influence of intoxicating liquor or controlled drugs, **prescription drugs, over-the-counter drugs, or any substances having the property of releasing toxic vapors used for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulled senses of the nervous system, which impair a person's ability to drive** or any combination thereof;

12 Chemical Substance. Amend RSA 265-A:15, I to read as follows:

I. Any law enforcement officer, authorized agent, or peace officer, who has been certified by the police standards and training council according to standards for such certification contained in rules adopted by said council pursuant to RSA 541-A, having reasonable grounds to believe that a person has been driving, operating, attempting to operate, or in actual physical control of an OHRV, driving, attempting to drive, or in actual physical control of a vehicle, or operating, attempting to operate, or in actual physical control of a boat upon the public waters of the state while under the influence of intoxicating liquor or controlled drug,

prescription drug, over-the-counter drug, or any substance having the property of releasing toxic vapors used for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulled senses of the nervous system, which impairs a person's ability to drive or while the person's alcohol concentration was 0.08 or more or in the case of a person under the age of 21, 0.02 or more or in the case of a person licensed to operate and operating a commercial vehicle or operating a commercial vessel and licensed pursuant to RSA 270-E:22 at the time of the offense, 0.04 or more may, without making an arrest, request that such person submit to a preliminary breath test for alcohol concentration to be administered by the officer. The results of any test administered under this section may be introduced into evidence in a court for any relevant purpose. Failure to submit to the test shall not constitute a violation of this chapter. Evidence of a failure to submit to a preliminary breath test shall not be admissible in court in any prosecution under this subdivision, except for the purpose of determining whether the officer had probable cause to arrest the person. The provisions of this section shall not limit the introduction of any other competent evidence bearing on the question of whether a person charged with violating RSA 265-A:2, I(a), RSA 265-A:2, II, or RSA 265-A:3 was under the influence of intoxicating liquor or any controlled drug, ***prescription drug, over-the-counter drug, or any substance having the property of releasing toxic vapors used for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulled senses of the nervous system, which impairs a person's ability to drive.*** Nothing contained in this section shall be construed to prevent or require a subsequent test pursuant to RSA 265-A:4. The police officer requesting the test shall advise orally the person to be tested that his or her failure to take the test or his or her taking of the test shall not be construed to prevent or require a subsequent test pursuant to RSA 265-A:4. The results of the test shall be furnished immediately to the person tested by the police officer administering the test and in writing, if requested.

13 Chemical Substance. Amend the introductory paragraph of RSA 265-A:16 to read as follows:

265-A:16 Blood Testing of Certain Motor Vehicle Fatalities. When a collision, boating accident, or OHRV accident results in death or serious bodily injury to any person, all drivers or operators involved, whether living or deceased, and all deceased vehicle, boat, or OHRV occupants and pedestrians involved shall be tested for evidence of alcohol or controlled drugs, ***prescription drugs, over-the-counter drugs, or any substances having the property of releasing toxic vapors used for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulled senses of the nervous system, which impair a person's ability to drive.*** A law enforcement officer, authorized agent, or peace officer shall request a licensed physician, registered nurse, certified physician's assistant, or qualified medical technician or medical technologist to withdraw blood from each driver or operator involved if living and from the body of each deceased driver or operator, deceased occupant, or deceased pedestrian, in accordance with RSA 611-B:14, II, for the purpose of testing for evidence of alcohol content or controlled drugs, ***prescription drugs, over-the-counter drugs, or any substances having the property of releasing toxic vapors used for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulled senses of the nervous system, which impair a person's ability to drive;*** provided that in the case of a living driver or operator the officer has probable cause to believe that the driver or operator caused the collision or accident. All tests made under this section shall be conducted by the forensic science laboratory established in RSA 106-B:2-a or in any other laboratory capable of conducting such tests which is licensed under the laws of this or any other state and which has also been licensed by the U.S. Department of Health and Human Services under the Clinical Laboratory Improvement Act of 1988, as amended. A copy of the report of any such test shall be kept on file by the medical examiner. The filed report is not a public record under RSA 91-A. However, the report shall be made available to the following:

14 Chemical Substance. Amend RSA 265-A:17 to read as follows:

265-A:17 Arrest Without a Warrant. Notwithstanding any other statutory provision of law to the contrary, a law enforcement officer may, without a warrant, arrest any person involved in a traffic accident, OHRV accident, or boating accident when the officer has probable cause to believe that such person has committed an offense, an element of which is driving under the influence of intoxicating liquors[.] ***or controlled drugs, prescription drugs, over-the-counter drugs, or any substances having the property of releasing toxic vapors used for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulled senses of the nervous system, which impair a person's ability to drive,*** or both. Notwithstanding any statutory provision of law to the contrary, a law enforcement officer may make such an arrest in such officer's own jurisdiction or on the property of any medical facility in another jurisdiction in this state where the person or others are taken for treatment for injuries suffered in such traffic accident.

15 Chemical Substance. Amend RSA 265-A:21, I to read as follows:

I. Notwithstanding the provisions of RSA 651:5, no court shall order an annulment of any record of conviction of driving or attempting to drive a vehicle upon any way or driving, operating, attempting to operate, or being in actual physical control of an OHRV or operating or attempting to operate a boat on the waters of this state while under the influence of intoxicating liquor or any controlled drug, ***prescription drug, over-the-counter drug, or any substance having the property of releasing toxic vapors used for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulled senses of the nervous system, which impairs a person's ability to drive*** or while having an alcohol concentration of 0.08 or more or of aggravated drunken driving until 10 years after the date of conviction. Any record thus annulled shall be retained in a permanent file, to be opened only for purposes of sentencing in the case of an offense under RSA 265-A:3.

16 Chemical Substance. Amend RSA 265-A:35, II to read as follows:

II. No holder of a probationary license shall drive or attempt to drive a vehicle upon any way when he or she is under the influence of intoxicating liquor or any controlled drug, ***prescription drug, over-the-counter drug, or any substance having the property of releasing toxic vapors used for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulled senses of the nervous system, which impairs a person's ability to drive*** or any combination of intoxicating liquor and controlled drugs, ***prescription drugs, over-the-counter drugs, or any substances having the property of releasing toxic vapors used for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulled senses of the nervous system, which impair a person's ability to drive*** so that the alcohol concentration is 0.03 or more. Driving with an alcohol concentration of 0.03 or more is a per se violation of a probationary license and subjects the probationary license holder to administrative suspension of his or her driver's license for not less than 90 days and not more than 180 days. Such administrative suspension shall be in addition to any court imposed suspension or revocation periods.

17 Chemical Substance. Amend RSA 270:12-a, I(b) to read as follows:

(b) The provisions of RSA 265-A, relative to the operation or attempted operation of boats by a person under the influence of intoxicating liquor or a controlled drug, ***prescription drug, over-the-counter drug, or any substance having the property of releasing toxic vapors used for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulled senses of the nervous system, which impairs a person's ability to drive*** or other unlawful operation of boats thereunder;

18 Chemical Substance. Amend RSA 651:6, II(b)-(c) to read as follows:

(b) Has previously been convicted of a violation of RSA 630:3, II, RSA 265-A:3, I(b) or II(b), or any crime in any other jurisdiction involving driving or attempting to drive a motor vehicle under the influence of controlled drugs, ***prescription drugs, over-the-counter drugs, or any substances having the property of releasing toxic vapors used for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulled senses of the nervous system, which impair a person's ability to drive*** or intoxicating liquors, or both, and such person has committed a crime as defined under RSA 630:3, II or RSA 265-A:3, I(b) or II(b); or

(c) Has twice previously been convicted in this state or any other jurisdiction, for driving or attempting to drive a motor vehicle under the influence of intoxicating liquors or controlled drugs, ***prescription drugs, over-the-counter drugs, or any substances having the property of releasing toxic vapors used for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulled senses of the nervous system, which impair a person's ability to drive***, or both, and such person has committed a crime as defined under RSA 630:3, II or RSA 265-A:3, I(b) or II(b).

19 Effective Date. This act shall take effect January 1, 2013.

2012-1875s

AMENDED ANALYSIS

This bill changes the prohibition on driving under the influence of a controlled drug to driving under the influence of a controlled drug, prescription drug, over-the-counter drug, or any substance having the property of releasing toxic vapors used for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulled senses of the nervous system, which impairs a person's ability to drive.