

Amendment to SB 155-FN

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

2
3 1 New Section; Nurse Practice Act; Temporary Health Partner. Amend RSA 326-B by inserting
4 after section 14 the following new section:

5 326-B:14-a Temporary Health Partner.

6 I. To address staffing shortages at long-term care facilities and meet the needs of some of
7 New Hampshire's most vulnerable populations, the position of temporary health partner (THP) is
8 hereby authorized to work in a skilled nursing facility, notwithstanding any provision of RSA 326-
9 B:14, provided that:

10 (a) The THP completes training of no less than 8 hours, provided by a national
11 association such as the American Health Care Association or by a New Hampshire educational
12 program.

13 (b) THPs shall work under the supervision of an RN, APRN, or LPN, as is required of
14 LNAs under RSA 326-B:14.

15 (c) The scope of work authorized to be performed by THPs is limited to the work set
16 forth in this section and shall be performed in accordance with the resident care plan.

17 (d) The THP has demonstrated competency, as determined by the employing long-term
18 care facility, prior to performing any of the activities set forth in this section.

19 II. Scope of work for a temporary health partner (THP):

20 (a) The THP is a temporary position limited to assist LNAs and nurses in their daily
21 tasks. Each of these tasks shall not be performed without proper training and demonstrating
22 competency in such tasks. The THP shall work under the direction and supervision of licensed
23 nurses to assist nurses and LNAs to provide services set forth in each resident care plan. Before
24 performing any tasks described in subparagraph (b), the THP shall have been trained and
25 demonstrated competency to perform such tasks, and shall review and adhere to the resident care
26 plan. The facility shall provide direction and oversight to the THP.

27 (b) After the employing facility ensures skill competency, the THP may perform any of
28 the following activities:

29 (1) Nutrition and elimination assistance. Assist with elimination, including toileting
30 and peri-care, and assist with routine ostomy care.

31 (2) Comfort care and end-of-life care. Assist with promoting comfort and sleep,
32 assist with end-of-life care, and assist with physical care of body after death.

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1 (3) Activities of daily living. Assist with bathing, oral care, denture care, grooming,
2 shaving, nail care, and dressing and undressing.

3 (4) Infection control practices. Assist with hand hygiene, standard and
4 transmission-based precautions, cleaning and disinfection, utilization of personal protective
5 equipment (PPE).

6 (5) Positioning, moving, and restorative care. Assist with ambulation or walking
7 and occupied bedmaking.

8 III. The position of THP shall not be considered a substitute for licensure as an LNA under
9 RSA 326-B:14 but is intended to assist the work of LNAs. The THP shall not perform services
10 independently and shall be supervised by licensed nurses at all times.

11 2 New Section; Office of Professional Licensure and Certification; Emergency Licensing Process.
12 Amend RSA 310-A by inserting after section 1-g the following new section:

13 310-A:1-h Emergency Licensing Process. Notwithstanding any other law to the contrary, the
14 office of professional licensure and certification may issue emergency licenses to the following
15 applicants:

16 I. Any medical provider previously licensed in New Hampshire in the last 3 years whose
17 license is no longer active, subject to the following:

18 (a) The medical provider's license was in good standing prior to being placed in inactive
19 or lapsed status.

20 (b) Notwithstanding any law or rule to the contrary, a medical provider shall not be
21 required to complete continuing education as a condition precedent to reactivating their license
22 pursuant to this section.

23 II. Any medical provider previously licensed to practice in another jurisdiction within the
24 last 3 years whose license is no longer active, subject to the following:

25 (a) The medical provider's license was in good standing in another United States
26 jurisdiction prior to being placed in inactive or lapsed status; and

27 (b) The medical provider presents evidence to the office of professional licensure and
28 certification that the medical provider was licensed and in good standing immediately prior to the
29 change in licensure status.

30 (c) Notwithstanding any law or rule to the contrary, a medical provider shall not be
31 required to complete continuing education as a condition precedent to receive an emergency license
32 pursuant to this section.

33 III. Any fellow enrolled in a New Hampshire program accredited by the Accreditation
34 Council for Graduate Medical Education to practice within the fellow's core specialty, subject to the
35 following:

36 (a) The fellow is American Board of Medical Specialties (ABMS) or American
37 Osteopathic Association (AOA) board-eligible or certified in the core specialty.

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1 (b) The fellow is appointed to the medical staff at a sponsoring institution and will
2 engage in practice consistent with the policies and procedures of the sponsoring institution and its
3 participating sites.

4 (c) The time spent in core specialty service is limited to 20 percent of the fellow's annual
5 education time in any academic year.

6 (d) A fellow seeking to practice under this paragraph shall provide the office of
7 professional licensure and certification with appropriate evidence that the required qualifications
8 have been met.

9 IV. Senior nursing students, who are scheduled to graduate within 5 months from the date
10 of application, from a board of nursing approved registered nursing or practical nursing program,
11 subject to the following:

12 (a) The individual is employed by or providing health care services at the direction of, a
13 licensed health care facility or a licensed health care provider.

14 (b) The individual is directly supervised while providing health care services.

15 (c) The health care services are being provided in response to the COVID-19 pandemic.

16 IV. Current and former military service members who have been assigned a military
17 occupational specialty code of 68W (Army) or 4N0X1 (Air Force), with or without additional skill
18 identifiers, and who, as part of their service in the military, have utilized their military occupational
19 specialty within the last 3 years, may apply for a license as a nursing assistant in New Hampshire.

20 V. An individual licensed as an EMT-Basic, Advanced EMT, or Paramedic in any United
21 States jurisdiction who presently holds a certification from the National Registry of Emergency
22 Medical Technicians (NREMT), may apply for an emergency license as a licensed nursing assistant.

23 VI. Any provider seeking an emergency license under this section shall submit his or her
24 request on a form adopted by the office of professional licensure and certification for such purpose.

25 VII. In this section, an applicant in good standing shall include medical providers who are
26 subject to nondisciplinary conditions, but shall not include medical providers whose licenses have
27 been revoked, canceled, surrendered, suspended, denied, or subject to disciplinary restrictions.

28 VIII. Licenses issued pursuant to this section shall be on a temporary basis and shall expire
29 on or before January 31, 2022.

30 IX. All individuals licensed under this section shall be subject to the jurisdiction of the state
31 licensing body for that profession.

32 X. The office of professional licensure and certification may issue guidance relative to the
33 emergency licensing process established in this section, which may include guidance concerning the
34 appropriate supervision of nursing students. Any guidance shall be posted on the board's website.

35 3 Pharmacists and Pharmacies; Definition of the Practice of Pharmacy. Amend RSA 318:1, XIV
36 to read as follows:

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XIV. "Practice of pharmacy" means the professional acts performed by a pharmacist and shall include the interpretation and evaluation of prescription orders; the administration, compounding, dispensing, labeling and distribution of drugs and devices; the participation in drug selection and drug-related device selection; drug evaluation; utilization or regimen review; the monitoring of drug therapy and use; medication therapy management in accordance with collaborative pharmacy practice agreements; the proper and safe storage and distribution of drugs and devices, and the proper maintenance of proper records; the responsibility of advising, when necessary or when regulated, of therapeutic values, hazards, and use of drugs and devices; ***the initiating, ordering, administering, and analyzing of FDA approved Emergency Use Authorization SARS-CoV-2 (COVID-19) point-of-care diagnostic kits (COVID-19 tests or test kits) to detect SARS-CoV-2 or its antibodies, so long as the pharmacist has received the adequate education and training to do so;*** and the offering or performing of these acts, services, operations, or transactions necessary in the conduct, operation, management, and control of pharmacy.

4 New Section; Pharmacists and Pharmacies; COVID-19 Testing. Amend RSA 318 by inserting after section 14-a the following new section:

318:14-b COVID-19 Testing. Pharmacists may administer COVID-19 testing if the following conditions are met:

I. The pharmacist received adequate education and training to initiate, order, administer, and analyze COVID-19 test kits.

II. The COVID-19 tests are administered at a pharmacy that holds the appropriate clinical laboratory improvement amendments (CLIA) certificate and a New Hampshire laboratory license issued by the department of health and human services (DHHS) or DHHS waiver.

III. The pharmacy creates and implements policies and procedures to address the collection, storage, transport, and analysis of samples collected as a result of administering and analyzing COVID-19 test kits. Such policies and procedures shall be in accordance with the manufacturer's instructions and supplemented as needed.

5 New Section; Pharmacists and Pharmacies; Pharmacy Technician Administration of COVID-19 Vaccines. Amend RSA 318 by inserting after section 16-e the following new section:

318:16-f Pharmacy Technician Administration of COVID-19 Vaccines. New Hampshire registered and certified pharmacy technicians may administer COVID-19 vaccines to persons 18 years of age or older while under the supervision of a New Hampshire licensed pharmacist, if the following conditions are met:

I. The vaccination is ordered by the supervising pharmacist.

II. The supervising pharmacist is readily and immediately available to the immunizing registered or certified pharmacy technician.

III. The COVID-19 vaccine is FDA-authorized or FDA-licensed.

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1 IV. The COVID-19 vaccine is ordered and administered according to the Advisory
2 Committee on Immunization Practices (ACIP) COVID-19 vaccine recommendations.

3 V. The registered or certified pharmacy technician has completed a practical training
4 program approved by the Accreditation Council for Pharmacy Education (ACPE). This training
5 program shall include hands-on injection technique and the recognition and treatment of emergency
6 reactions to vaccines.

7 VI. The registered or certified pharmacy technician has a current certificate in basic
8 cardiopulmonary resuscitation.

9 VII. The registered or certified pharmacy technician shall complete a minimum of 2 hours of
10 ACPE-approved, immunization-related continuing pharmacy education during the relevant state
11 licensing period.

12 VIII. The supervising pharmacist shall comply with all recordkeeping and reporting
13 requirements.

14 IX. The supervising pharmacist shall be responsible for complying with requirements
15 related to reporting adverse events.

16 X. The supervising pharmacist shall review the vaccine registry or other vaccination records
17 before ordering the registered or certified pharmacy technician to administer the vaccination.

18 XI. The supervising pharmacist shall comply with any applicable requirements or conditions
19 of use as set forth in the CDC's COVID-19 vaccination provider agreement and any other federal
20 requirements that apply to the administration of COVID-19 vaccine.

21 6 New Section; Pharmacists and Pharmacies; Out-of-state Pharmacies as Temporary Limited
22 Licensed Mail-Order Facilities. Amend RSA 318 by inserting after section 37 the following new
23 section:

24 318:37-a Out-of-state Pharmacies as Temporary Limited Licensed Mail-Order Facilities.

25 I. To protect public health and increase access to medical care in New Hampshire, and to
26 promote and secure the safety and protection of the people of New Hampshire, any out-of-state
27 pharmacy seeking to ship investigational drugs to clinical trial participants who reside in New
28 Hampshire and who are unable to retrieve the investigational drugs from the out-of-state pharmacy
29 due to the novel coronavirus shall be allowed to operate as if the out-of-state pharmacy were licensed
30 as a mail-order pharmacy within the state of New Hampshire if the following conditions are met:

31 (a) The out-of-state pharmacy is licensed and in good standing in another United States
32 jurisdiction.

33 (b) The medical services provided within New Hampshire are in-person or through
34 appropriate forms of telehealth.

35 (c) The out-of-state pharmacy presents to the office of professional licensure and
36 certification evidence that they are licensed in good standing in another jurisdiction. Such out-of-

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1 state pharmacies shall be issued an emergency mail-order pharmacy license at no cost, which shall
2 remain in effect until January 31, 2022.

3 (d) Such out-of-state pharmacies shall be subject to the jurisdiction of the board of
4 pharmacy while acting under an emergency mail-order pharmacy license.

5 II. The office of professional licensure and certification, in consultation with the board of
6 pharmacy, shall provide assistance and guidance, as necessary, to out-of-state pharmacies regarding
7 the requirements of this section.

8 7 New Subdivision; Local Land Use Planning; Protection of Pre-existing, Non-conforming Use
9 Status for Summer Camps. Amend RSA 674 by inserting after section 73 the following new
10 subdivision:

11 Protection of Pre-existing, Non-conforming Use Status for Summer Camps

12 674:74 Protection of Pre-existing, Non-conforming Use Status for Summer Camps.

13 I. Notwithstanding any provision of law or municipal ordinance or regulation to the
14 contrary, any summer camp that has been operating in the state of New Hampshire as a pre-
15 existing, nonconforming use under its applicable zoning ordinance that either closed for the summer
16 of 2020 due to the COVID-19 pandemic, or was forced to operate for a shorter season or at a reduced
17 capacity during the summer of 2020 due to the COVID-19 pandemic, shall not lose its status as a
18 pre-existing, non-conforming use due to either:

19 (a) Its failure to operate during the summer of 2020; or

20 (b) Its operation for a shorter season or at a reduced capacity during the summer of
21 2020.

22 II. The summer camp's status or ability to operate as a pre-existing, non-conforming use
23 shall not be in any way affected by its failure to operate during the summer of 2020, or its operation
24 for a shorter season or at a reduced capacity during the summer of 2020.

25 8 New Section; Continuing Construction During COVID-19. Amend RSA 674 by inserting after
26 section 51-a the following new section:

27 674:51-b Continuing Construction During COVID-19. In municipalities that have adopted an
28 enforcement mechanism pursuant to RSA 674:51 and are not presently offering any building permits
29 and construction inspection functions as a result of COVID-19, contractors may follow these
30 guidelines to keep construction progressing:

31 I. Complete typical paperwork related to the requested construction permit or building
32 inspection. Permit applications with submittal documents shall be submitted to the building official
33 by first class mail, drop box, if provided, or by electronic submission, such as email, where available.

34 II. Make and keep record of all reasonable attempts to communicate with municipal officials
35 to determine the availability of services and follow instructions from municipal officials if typical or
36 modified arrangements are offered.

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1 III. If, as a result of exigent circumstances relating to COVID-19, a building official is
2 unable to or refuses to issue any building construction or building systems permit pursuant to and
3 within the time frame provided by RSA 676:13, III, the permit applicant or contractor may, 10 days
4 after written notification to the building official, commence construction pursuant to the prepared
5 project plans and documentations as if a proper building permit has been issued.

6 IV. The contractor may only proceed without a permit or approval with the prior written
7 approval of the client. Written approval by the client shall be separate from the contractor's
8 standard contract and shall state in at least 10 point bold font that the client understands that if
9 they choose to proceed with the project, the contractor's plans will not be reviewed or pre-approved
10 by a town building official. Written approval also shall specify whether the client can be charged for
11 any remedial work necessary upon ultimate inspection.

12 V. If a construction inspection is refused or cannot be reasonably or timely offered within 5
13 working days, the applicant or contractor may continue with construction work in accordance with
14 issued permits after documenting completed work and materials using photographic and/or video
15 methods to preserve evidence for subsequent review. Work should be left unconcealed and visible for
16 later inspection to the greatest extent practicable. If photographic or video documentation does not
17 show all necessary aspects of the inspection process needed to demonstrate code compliance, the
18 building official may take all necessary actions to verify compliance with applicable codes.

19 VI. Once a municipality resumes operations, the applicant or contractor shall communicate
20 with municipal officials to provide updates regarding the status of commenced or progressed
21 construction and obtain after-the-fact inspections and/or documentation of the same.

22 VII. Proceeding with construction under paragraph III in the absence of proper and
23 customary building permits and inspections shall be considered a practice of last resort to commence
24 and keep New Hampshire construction projects, vital to the economy, active and progressing during
25 these extraordinary times.

26 VIII. The contractor shall bear responsibility for arranging review of photographic and/or
27 video evidence, and obtaining proper documentation of completion at such time as normal municipal
28 inspection services resume. The contractor remains responsible and liable for meeting minimum
29 code requirements of the building and fire codes, as adopted in New Hampshire. The contractor
30 further bears the risk that construction work must be altered or repaired after-the-fact to achieve
31 code compliance. Nothing in this section prohibits the building official from taking all necessary
32 actions to verify compliance with applicable codes.

33 IX. Municipal officials shall operate in good faith to administer these interim practices,
34 however, no municipal official or municipality shall be liable to the contractor or any third party for
35 any failure on the part of a contractor to comply with these provisions or the failure to construct
36 pursuant to applicable codes.

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1 9 New Section; Liquor Licenses and Fees; Temporary Expansion of Outdoor Dining through
2 2023. Amend RSA 178 by inserting after section 31 the following new section:

3 178:32 Temporary Expansion of Outdoor Dining through 2023.

4 I. Restaurants and other food service establishments licensed under RSA 143-A:4 shall be
5 permitted to expand outside wherever an outdoor dining area can be set up safely, such as parking
6 spaces close to entrances, sidewalks, existing patios, lawn areas, or other appropriate areas. The
7 food service establishment shall be responsible for cleaning and disinfecting the outdoor dining area,
8 pursuant to state and federal guidelines. The outdoor dining area shall be clearly delineated and
9 distanced from the general public. If expansion is in a shared space, such as a sidewalk or street,
10 the restaurant shall be required to coordinate and seek approval from local authorities.

11 II. Authorization to serve alcohol in the temporary outdoor dining area shall be limited to
12 food service establishments with on-premises beverage and wine or on-premises beverage and liquor
13 licenses issued under this chapter.

14 III. The state liquor commission shall promulgate such rules under RSA 541-A, as may be
15 needed to implement this section.

16 IV. In order to minimize persons entering into restaurants or off-sale licensees, the
17 commission shall amend administrative rule Liq404.04 (d) to permit the curbside delivery of retail
18 beer and table wine by off-sale licensees to persons meeting the requirements of RSA 179:5 with
19 acknowledgment that after 2023 this provision reverts back to its existing form.

20 10 Prospective Repeals. The following are repealed:

21 I. RSA 310-A:1-h, relative to emergency licensing procedures.

22 II. RSA 318:37-a, relative to out-of-state pharmacies temporarily licensed as mail-order
23 facilities.

24 III. RSA 178:32, relative to temporary expansion of outdoor dining.

25 11 Effective Date.

26 I. Paragraphs I and II of section 10 of this act shall take effect January 31, 2022.

27 II. Paragraph III of section 10 of this act shall take effect December 31, 2023.

28 III. The remainder of this act shall take effect upon its passage.

2021-0774s

AMENDED ANALYSIS

This bill:

- I. Establishes the position of temporary health partner.
- II. Authorizes emergency licensing of medical providers.
- III. Authorizes COVID-19 testing and vaccination by pharmacists and pharmacy technicians.
- IV. Permits out-of-state pharmacies providing investigational drugs to clinical trial participants in New Hampshire to be temporarily licensed as mail-order pharmacies.
- V. Protects the pre-existing, non-conforming use status of summer camps that were unable to operate during the summer of 2020 due to COVID-19.
- VI. Establishes procedures to allow construction to continue during the pandemic.
- VII. Temporarily allows expanded outdoor dining.