

Amendment to HB 187

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

2
3 1 Department of Safety; Public Health Emergency Management Powers. Amend RSA 21-P:53 to
4 read as follows:

5 21-P:53 Public Health Powers and Duties. During the existence of a state of emergency under
6 this chapter, the commissioner of health and human services shall have the following powers and
7 duties, subject to the direction and control of the governor, which are in addition to those set forth in
8 RSA 141-C; provided that such powers and duties shall be limited to the specific nature of the
9 emergency, its geographic limits, and the conditions that brought it about, as specified in the
10 declaration of the state of emergency:

11 I. The commissioner shall have the responsibility and authority to carry out all public health
12 activities within the state in cooperation and collaboration with the division of homeland security
13 and emergency management.

14 II. The commissioner may, without the approval of the ~~[governor's]~~ **executive** council or the
15 legislative fiscal committee, and notwithstanding the provisions of RSA 4:45, 9:13-d, and 9:19, ~~[and~~
16 ~~any other law to the contrary,]~~ purchase and distribute anti-toxins, serums, vaccines, immunizing
17 agents, antibiotics, and other pharmaceutical agents that the commissioner deems to be in the
18 interest of public health.

19 III. If there is a statewide or regional shortage or threatened shortage of any anti-toxins,
20 serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents, the
21 commissioner may control, ~~[restrict]~~ **prioritize**, and ration the use, sale, dispensing, distribution, or
22 transportation of such products as necessary to best protect the health, safety, and welfare of the
23 people of this state. In making rationing or other supply and distribution decisions, the
24 commissioner shall determine high risk or critical need groups that shall receive priority for such
25 products.

26 ***III-a. The commissioner shall have no power to restrict the ability of a licensed***
27 ***practitioner to prescribe pursuant to RSA 329 and RSA 326-B.***

28 ***III-b. If during a public health emergency, a treatment or vaccination becomes***
29 ***available which is anticipated to be in limited supply, the commissioner shall develop, in***
30 ***consultation with the ethics oversight advisory committee, established in RSA 141-C:27, a***
31 ***plan for its distribution.***

IV. The commissioner may investigate any incident or imminent threat of any disease or health condition that may be caused by a natural disaster, radiation or chemical exposure, or the release of any microorganism, infectious substance, or naturally occurring or manufactured biological product, that poses a risk of a significant number of human fatalities or incidents of permanent or long-term disability. Such investigations may include requiring information from any health care provider or other person affected by, or having information related to, the incident or threat, inspections of buildings and conveyances and their contents, laboratory analysis of samples collected during the course of such inspections, and requiring a physical examination and the provision of specimens of body secretions, excretions, fluids, and discharges for laboratory examination of any person having a disease or health condition that necessitates an investigation under this paragraph.

V. The commissioner may order a person to undergo such medical care as may be necessary to treat or prevent an incident or threat of disease or other health condition prompting an investigation pursuant to paragraph IV. Such care may include immunization of individuals as necessary to prevent the spread of contagious disease, except that an individual may refuse treatment or immunization pursuant to the provisions of ~~[RSA 141-C:15, VI]~~ ***RSA 141-C:16 and RSA 141-C:20-c.***

VI. Any order compelling an investigation, physical examination, the provision of specimens, medical treatment or care, or immunization, and any other order of the commissioner under this chapter, shall be subject to the due process requirements of RSA 141-C:14-a.

VII. The department of health and human services shall acquire and retain only the minimum amount of information, specimens, and samples relating to individuals necessary to carry out its obligations under this section. Any genetic testing of specimens and samples shall be limited to the viruses, bacteria, fungi, or other microorganisms therein. Personally identifiable information shall not be acquired or retained unless necessary for the department to carry out its responsibilities under this section, RSA 141-C, or any other provision of law. Such information shall not be retained beyond the duration of the state of emergency without the approval of the governor and executive council, which information shall be subject to the confidentiality provisions of RSA 141-C:10.

VIII. Except as provided in paragraph IX, an emergency order issued under this section shall be subject to review by the joint legislative oversight committee on health and human services, established in RSA 126-A:13. The commissioner shall notify the ethics oversight advisory committee established in RSA 141-C:27 of any emergency order issued under this section, and the joint legislative oversight committee shall consider the input of the ethics committee, if provided, in any decision. If the emergency precludes either committee from meeting in person, they shall be authorized, notwithstanding any other provision of law, to meet remotely for this purpose.

1 ***IX. An emergency order issued under paragraph V or VI shall be subject to***
2 ***legislative oversight by the ethics oversight advisory committee pursuant to RSA 141-C:27,***
3 ***II(b).***

4
5 Amend RSA 126-A:13, I(a) as inserted by section 3 of the bill by replacing it with the following:

6
7 (a) [~~Two~~] ***Three*** members of the senate, at least one of whom shall be a member of the
8 senate health and human services committee and one of whom shall be a member of the senate
9 finance committee, appointed by the president of the senate[~~; and~~].

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AMENDED ANALYSIS

This bill makes various changes to the powers of the commissioner of the department of health and human services during a public health emergency; authorizes the joint legislative oversight committee on health and human services to review, and rescind by a 2/3 vote, emergency orders issued by the commissioner; gives a person subject to a treatment order for a communicable disease a right to a hearing on the order; and amends the membership and duties of the ethics oversight advisory committee. The bill also amends the membership on the health and human services oversight committee.