CHAPTER 306
HB 1466 - FINAL VERSION

10Mar2022... 0406h
04/28/2022 1696s
26May2022... 2039CofC

2022 SESSION

22-2514
05/08

HOUSE BILL ***1466***

AN ACT relative to the off-label use of prescription drugs and relative to pharmacy prescriptions.

SPONSORS: Rep. Cross, Merr. 3; Rep. Yakubovich, Merr. 24; Rep. Aron, Sull. 7; Rep. Blasek, Hills. 21; Rep. Potucek, Rock. 6; Rep. Layon, Rock. 6

COMMITTEE: Health, Human Services and Elderly Affairs

AMENDED ANALYSIS

This bill clarifies circumstances under which a physician, physician assistant, and advanced practice registered nurse may prescribe a drug for an off-label indication. The bill also prohibits disciplinary action against a pharmacist for filling a valid prescription for off-label use.

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Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to the off-label use of prescription drugs and relative to pharmacy prescriptions.

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

306:1 New Paragraph; Physicians and Surgeons; Disciplinary Action; Off-Label Use of Prescription Drug. Amend RSA 329:17 by inserting after paragraph VI-a the following new paragraph:

VI-b. The state of New Hampshire confirms its strong support for shared decision making between healthcare professionals and their patients. A licensee may lawfully prescribe an FDA approved drug product for an off-label indication and be held to the same standard of care as when prescribing for on-label indication when:

(a) Off-label use of the drug product for this indication has longstanding common use;

(b) There is medical evidence to support this use and no known evidence contraindicating such use, including but not limited to peer reviewed studies and practice guidelines from relevant medical societies; or

(c) The licensee has provided and the patient, or if the patient is a minor, the patient's parent or guardian, has signed an informed consent form that includes the known potential benefits, known potential risks, alternative treatment options, expected prognosis without treatment, and a disclosure that a prescription is for an off-label indication. The signed informed consent form shall remain part of the patient's medical record.

306:2 New Paragraph; Nurse Practice Act; Advanced Practice Registered Nurse; Disciplinary Action; Off-label Use of Prescription Drug. Amend RSA 326-B:37 by inserting after paragraph III the following new paragraph:

III-a. The state of New Hampshire confirms its strong support for shared decision making between healthcare professionals and their patients. A licensee may lawfully prescribe an FDA approved drug product for an off-label indication and be held to the same standard of care as when prescribing for on-label indication when:

(a) Off-label use of the drug product for this indication has longstanding common use;

(b) There is medical evidence to support this use and no known evidence contraindicating such use, including but not limited to peer reviewed studies and practice guidelines from relevant medical societies; or

(c) The licensee has provided and the patient, or if the patient is a minor, the patient's parent or guardian, has signed an informed consent form that includes the known potential benefits, known potential risks, alternative treatment options, expected prognosis without treatment, and a disclosure that

a prescription is for an off-label indication. The signed informed consent form shall remain part of the patient's medical record.

306:3 New Section; Physician Assistant; Disciplinary Action; Off-label Use of Prescription Drug. Amend RSA 328-D by inserting after section 6 the following new section:

328-D:6-a Off-label Use of Prescription Drugs; When Permitted. The state of New Hampshire confirms its strong support for shared decision making between healthcare professionals and their patients. A licensee may lawfully prescribe an FDA approved drug product for an off-label indication and be held to the same standard of care as when prescribing for on-label indication when:

I. Off-label use of the drug product for this indication has longstanding common use;

II. There is medical evidence to support this use and no known evidence contraindicating such use, including but not limited to peer reviewed studies and practice guidelines from relevant medical societies; or

III. The licensee has provided and the patient, or if the patient is a minor, the patient's parent or guardian, has signed an informed consent form that includes the known potential benefits, known potential risks, alternative treatment options, expected prognosis without treatment, and a disclosure that a prescription is for an off-label indication. The signed informed consent form shall remain part of the patient's medical record.

306:4 New Section; Pharmacists and Pharmacies; Prescriptions. Amend RSA 318 by inserting after section 13 the following new section:

318:13-a Filling of Prescriptions. No licensed pharmacist shall face non-disciplinary or disciplinary action by the pharmacy board for filling a valid prescription for an off-label use.

306:5 Construction of Act. Nothing in this act shall be construed to legalize, constitute, condone, authorize, or approve suicide, assisted suicide, mercy killing, or euthanasia, or permit any affirmative or deliberate act or omission to end one's own life or to end the life of another other than to permit the natural process of dying.

306:6 Effective Date. The act shall take effect upon its passage.

Approved: July 01, 2022
Effective Date: July 01, 2022