

RSA 126-A:4

Statutes current through Chapter 8 of the 2024 Regular Session.

LEXIS™ New Hampshire Revised Statutes Annotated > Title X Public Health (Chs. 125 — 149-R) > Chapter 126-A Department of Health and Human Services (§§ 126-A:1 — 126-A:105)

126-A:4. Department Established.

I. There shall be a department of health and human services under the executive direction of a commissioner of health and human services, which department shall be organized to provide a comprehensive and coordinated system of health and human services as needed to promote and protect the health, safety, and well-being of the citizens of New Hampshire. Such services shall be directed at supporting families, strengthening communities, and developing the independence and self-sufficiency of New Hampshire citizens to the extent possible.

II. The commissioner shall have authority to establish, reorganize, or abolish such divisions, offices, bureaus, or other components of the department as may from time to time be necessary to carry out the mission and duties of the department. The commissioner shall make a quarterly report on the progress of the reorganization to the governor and the fiscal committee beginning with the quarter ending March 31, 1996.

II-a, II-b. [Repealed.]

III. The department shall establish an office of the ombudsman to provide assistance to clients of the department by investigating and resolving complaints regarding any matter within the jurisdiction of the department including services or assistance provided by the department or its contractors. The ombudsman's office may provide mediation or other means for informally resolving complaints. The records of the ombudsman's office shall be confidential and shall not be disclosed without the consent of the client on whose behalf the complaint is made, except as may be necessary to assist the service provider to resolve the complaint, or as required by law.

IV. The department may establish a quality assurance program.

(a) Any quality assurance program may consist of a comprehensive ongoing system of mechanisms for monitoring and evaluating the appropriateness of services provided to individuals served by the department or any of its contract service providers so that problems or trends in the delivery of services are identified and steps to correct problems can be taken.

(b) Records of the department's quality assurance program including records of interviews, internal reviews or investigations, reports, statements, minutes, and other documentation except for individual client medical records, shall be confidential and privileged and shall be protected from direct or indirect discovery, subpoena, or admission into evidence in any judicial or administrative proceeding, except as provided in subparagraphs IV(c) or (d).

- (c) In a case of legal action brought by the department against a contract service provider or in a proceeding alleging repetitive malicious action and personal injury brought against a contract service provider, the quality assurance program's records may be discoverable.
- (d) The department may refer any evidence of fraudulent or other criminal behavior gathered by the quality assurance program to the appropriate law enforcement authority.
- (e) No employees of the department or employees of a contract service provider or vendor shall be held liable in any action for damages or other relief arising from the providing of information to a quality assurance program or in any judicial or administrative procedure relating to the department's quality assurance program.

V.

- (a) The department shall collect relevant demographic data concerning the projected increase in the population of New Hampshire that is 65 years of age or older and analyze the impact of such data and projections over the period through 2025 on the economic, social, and governmental systems within New Hampshire, including health care, housing, transportation, business, employment, the economy, and the state budget.
- (b) In the development and analysis of the demographic data and projections, the department:
 - (1) May request and shall receive the assistance of all other state agencies, including the departments of transportation, administrative services, and business and economic affairs.
 - (2) Shall solicit assistance and input from representatives from the general court, business and industry, service providers, consumer and advocacy groups, and members of the general public.
- (c) The department shall report on or before November 1, 2001 and thereafter on or before November 1 in odd-numbered years to the governor, the president of the senate, and the speaker of the house relative to the progress of its efforts under this paragraph and such report shall include recommendations for legislation. The final report shall be submitted on or before November 1, 2007.

VI. If the department itself or through a contracted entity provides a closed loop referral system, the following privacy and security provisions shall be included:

- (a) The department shall not access any individual's personally identifiable information or protected health information from or through any closed loop referral system unless the individual is currently receiving services funded through a department of health and human services program or has received services funded through a department of health and human services program within the past 12 months, has previously given consent for the department to access their personally identifiable information or protected health information and has not revoked consent.
- (b) Notwithstanding the foregoing, the department may obtain specific consent from an individual to access the individual's personally identifiable information or protected health information on each consent for a referral for services, provided that in obtaining consent:
 - (1) A separate page, in hard copy or electronically, shall be used; and
 - (2) The request shall be phrased as follows: "Do you consent to allow the New Hampshire department of health and human services to have access to your personally identifiable

information and your private health information along with information about your referrals for services? Please note that you will receive the same services whether you sign this form or not.”

(c) Within 48 hours of becoming aware of a data breach, the contracted entity providing a closed loop referral system shall begin the process of notification by first class mail or other individually agreed to communication mechanisms to all individuals impacted by the data breach.

(d)

(1) An individual’s personally identifiable information or protected health information may be added to the closed loop referral system only if:

(A) The individual consents to its inclusion on each instance of a referral for services; and

(B) The individual whose information is intended to be included in the closed loop referral system shall retain the right to opt into the system on each referral and retain the right to revoke consent to be in the system at any time.

(2) If an individual revokes consent to be in the system, then, to the extent allowed under federal or state law, information relative to the individual’s referrals for services shall be deleted from the system within 7 days of the revocation.

(e) No provider or organization utilizing the closed loop referral system network shall have access to an individual’s personally identifiable information or protected health information unless the individual has been referred to that provider or organization for services and the provider or organization requested consent from and was given consent by the individual to access such information.

VII. The department of health and human services shall have the authority to fill unfunded positions, provided that the total expenditure for such positions shall not exceed the amount appropriated to the department for personal services.

History

1995, 310:1, eff. Nov. 1, 1995; 2001, 152:2, eff. Aug. 28, 2001; 286:3, eff. Sept. 14, 2001; 2003, 319:9, eff. July 1, 2003; 2004, 257:44, eff. July 1, 2004; 2012, 110:1, I, eff. May 29, 2012; 2017, 156:14, 64, effective July 1, 2017; 2021, 91:198, effective July 1, 2021; 2021, 122:8, effective July 9, 2021; 2022, 99:1, effective May 20, 2022; 2023, 79:194, 249, effective July 1, 2023.