

TITLE X

PUBLIC HEALTH

CHAPTER 132

PROTECTION FOR MATERNITY AND INFANCY

Section 132:1

132:1 Purpose; Instruction. – The department of health and human services may provide instruction, advice and such services as the commissioner may deem necessary for children with special health care needs, and to protect and promote the physical health of women in their child-bearing years and their infants and children.

Source. 1921, 151:1. PL 128:1. RL 150:1. RSA 132:1. 1983, 291:1, I. 1986, 198:11. 1995, 310:181, 183. 2004, 21:3, eff. June 4, 2004.

Section 132:2

132:2 Duties. – The commissioner of the department of health and human services shall:

- I. Conduct studies as necessary to carry out the provisions of this chapter.
- II. Formulate and administer such plans as are necessary to carry out the provisions of this chapter.
- III. Receive and expend, in accordance with plans developed under this chapter, funds made available to the department by the federal government, the state or its political subdivisions, or other sources.
- IV. Cooperate with the federal government and with other state and local agencies and organizations in developing, extending, and improving the services provided under this chapter.
- V. Supervise those services authorized by this chapter and provided under contract with local agencies.
- VI. Employ such persons as necessary to carry out the requirements of this chapter.
- VII. Administer the supplemental food program for women, infants, and children in accordance with RSA 132:12-a.
- VIII. Assure the prevention of ophthalmia neonatorum in accordance with RSA 132:6.
- IX. Assure the screening of newborn children for metabolic disorders in accordance with RSA 132:10-a.
- X. Administer services for children with special health care needs as provided for under RSA 132:13.
- XI. Prepare, in conjunction with the office of alcohol and drug abuse prevention, a brochure which provides information relative to fetal alcohol syndrome and which shall be available to the public in the office of the town clerk and at the check-out counter of the state liquor store.

Source. 1921, 151:4. PL 128:2. RL 150:2. RSA 132:2. 1986, 198:12. 1988, 226:1. 1995, 310:182. 2004, 21:4, eff. June 4, 2004. 2005, 261:1, eff. Sept. 20, 2005.

Section 132:3

132:3 Enforcement of Rules. – The division may enforce the department's rules and ordinances through its inspectors, or through the local boards of health.

Source. 1911, 121:2. PL 128:6. RL 150:6. RSA 132:3. 1985, 190:39, eff. May 29, 1985.

Section 132:4

132:4 Effect of Aid. – No person receiving aid under this chapter shall be affected thereby in any civil or political rights, nor shall their identity be disclosed except upon written order of the commissioner of the department of health and human services.

Source. 1921, 151:3. PL 128:3. RL 150:3. RSA 132:4. 1986, 198:13. 1995, 310:182, eff. Nov. 1, 1995.

Section 132:5

132:5 Contracts for Outside Services. – [Repealed 1986, 198:23, XXVII, eff. Aug. 2, 1986.]

Section 132:6

132:6 Prevention of Ophthalmia in Newborn. –

I. The physician, hospital, nurse midwife, midwife, or other health care provider attending a newborn child shall, after washing the lids and adjacent tissues immediately following birth, place into each eye of every child a single drop of a one percent solution of nitrate of silver or some equally efficient solution.

II. Should one or both eyes of an infant become inflamed, swollen, and red, and show an unusual discharge at any time within 2 weeks after its birth, a report shall be made in writing, within 6 hours thereafter, to the department of health and human services, except if a licensed physician is in attendance he shall report as required by this section within 24 hours.

III. If a physician is not in attendance, the parents, or whoever has charge of such infant, shall immediately place it in the charge of a licensed physician.

IV. The commissioner of the department of health and human services may publish such information and instruction and adopt rules as he deems expedient to prevent the development of inflammation in the eyes of newborn babies, or so-called ophthalmia neonatorum.

Source. 1911, 121:1. PL 128:5. RL 150:5. RSA 132:6. 1985, 190:40. 1986, 198:14. 1995, 310:181, 182. 1999, 213:1, eff. July 6, 1999.

Section 132:7

132:7 Treatment. – [Repealed 1986, 198:23, XXVIII, eff. Aug. 2, 1986.]

Section 132:8

132:8 Reports to Local Health Board. – [Repealed 1986, 198:23, XXIX, eff. Aug. 2, 1986.]

Section 132:9

132:9 Further Treatment. – [Repealed 1986, 198:23, XXX, eff. Aug. 2, 1986.]

Section 132:10

132:10 Report to Division of Public Health Services. – [Repealed 1986, 198:23, XXXI, eff. Aug. 2, 1986.]

Section 132:10-a

132:10-a Newborn Screening Tests Required; Newborn Screening Advisory Committee.

I. The physician, hospital, nurse midwife, midwife, or other health care provider attending a newborn child shall test a newborn child for metabolic disorders. Such tests shall include, but not be limited to, phenylketonuria, galactosemia, homocystinuria, maple syrup urine disease, and hypothyroidism. Additional disorders shall be added to the newborn screening panel based upon, but not limited to, the following considerations:

(a) The disorder is well-defined with a known incidence.

(b) The disorder is associated with significant morbidity and/or mortality.

(c) The disorder can be detected with a screening test that is ethical, safe, accurate, and cost-effective.

(d) Effective treatment exists for the disorder, and that early treatment, meaning before the onset of symptoms, is more effective in improving health outcomes than later treatment.

II. Notwithstanding any provision of law to the contrary, the commissioner of the department of health and human services shall establish fees, pursuant to RSA 541-A, to be paid by hospitals for the tests required under paragraph I. All such fees shall be paid into the newborn screening fund, hereby established in the state treasury. Moneys from the newborn screening fund established under this section shall be nonlapsing and shall be continually appropriated for use by the department to cover laboratory analysis and related newborn screening program costs.

III. The department of health and human services shall establish a newborn screening advisory committee which shall include a member of the oversight committee on health and human services, established in RSA 126-A:13, and representation from health care subspecialties, as determined by the department.

III-a. The department shall ensure that the laboratory analyzing tests authorized under paragraph I destroys any samples no later than 6 months following the completion of testing. Any samples taken for newborn screening shall only be used for tests required under this section. No such samples may be used for other research or DNA testing purposes unless authorized by the parent or guardian.

IV. The department shall make an annual report commencing on January 1, 2006 to the oversight committee on health and human services relative to newborn screening tests which shall include, but not be limited to the number and type of tests performed and their fiscal impact.

Source. 1965, 48:1. 1986, 198:15. 1999, 213:2, eff. July 6, 1999. 2005, 285:1, eff. Sept. 20, 2005. 2010, 233:1, eff. July 1, 2010.

Section 132:10-b

132:10-b Rulemaking. – The commissioner of the department of health and human services shall adopt rules, pursuant to RSA 541-A, relative to:

- I. The women, infants, and children program under RSA 132:12-a.
- II. The prevention of ophthalmia in newborn babies under RSA 132:6.
- III. Newborn screening tests and how fees for such tests are to be determined under RSA 132:10-a.
- IV. Services for children with special health care needs as provided under RSA 132:13.
- V. Maternal and child health services provided directly by the department or by local agencies under contract to it.

Source. 1965, 48:1. 1985, 190:41. 1986, 198:16. 1987, 279:1. 1995, 310:175, 182. 2004, 21:4, eff. June 4, 2004. 2005, 285:2, eff. Sept. 20, 2005.

Section 132:10-c

132:10-c Exception. – The provisions of RSA 132:10-a and 10-b shall not apply if the parents of such child object thereto.

Source. 1965, 48:1, eff. June 13, 1965.

Section 132:10-d

132:10-d Breast-feeding. – Breast-feeding a child does not constitute an act of indecent exposure and to restrict or limit the right of a mother to breast-feed her child is discriminatory.

Source. 1999, 121:2, eff. Aug. 9, 1999.

Maternal, Child Health, and Services for Children With Special Health Care Needs

Section 132:11

132:11 Authorization. – The commissioner of the department of health and human services may:

- I. Formulate and administer plans for the purposes specified in RSA 132:12 through RSA 132:13 and adopt rules under RSA 541-A to carry out these plans.
- II. Receive and expend in accordance with such plans funds made available to the department by the federal government, the state or its political subdivisions, or other sources.
- III. Cooperate with the federal government and with other state and local agencies and

organizations in developing, extending, and improving the services specified in RSA 132:12 through RSA 132:13, and in the administration of such plans.

Source. 1937, 58:2. RL 150:11. RSA 132:11. 1981, 307:1. 1985, 190:42. 1995, 310:175, 182, eff. Nov. 1, 1995.

Section 132:12

132:12 Maternal and Child Health Services. – The division may administer a program of maternal and child health services, and shall supervise those services not administered directly by it.

Source. 1937, 58:1. RL 150:12.

Section 132:12-a

132:12-a Women, Infants, and Children (WIC) Program. – The commissioner of the department of health and human services shall develop and administer a women, infants, and children program within the state under the Child Nutrition Act of 1966, in accordance with federal regulations promulgated by the Department of Agriculture and subject to continued funding from the federal Department of Agriculture. In the administration of the program, the commissioner:

I. Shall suspend a vendor from the program for any of the following:

(a) Providing cash, unauthorized food, or other items to participants in lieu of authorized supplemental foods.

(b) Charging the state for food not received by participants.

(c) Charging the program more for supplemental foods than other customers are charged for the same food item.

II. Shall suspend a participant from the program for any of the following:

(a) Knowingly and deliberately misrepresenting circumstances to obtain benefits.

(b) Selling supplemental foods or food instruments to, or exchanging them with, other persons.

(c) Receiving cash or credit towards purchases of unauthorized food or other items of value from food vendors, in lieu of authorized supplemental food.

III. May, upon determination that a person has fraudulently obtained funds under this program, bring an action to recover the funds. Any funds so recovered shall be remitted to the proper federal officials as required under federal law or regulation. Demand and payment of these funds shall not relieve or discharge any person from liability, either civil or criminal, for additional amounts or penalties as may be prescribed under any other applicable law.

Source. 1981, 307:2. 1986, 198:17. 1995, 310:182, 183, eff. Nov. 1, 1995.

Section 132:12-b

132:12-b Vendors. – [Repealed 1986, 198:23, XXXII, eff. Aug. 2, 1986.]

Section 132:12-c

132:12-c Participants. – [Repealed 1986, 198:23, XXXIII, eff. Aug. 2, 1986.]

Section 132:12-d

132:12-d Recovery by the State. – [Repealed 1986, 198:23, XXXIV, eff. Aug. 2, 1986.]

Section 132:12-e

132:12-e Women, Infants, and Children (WIC) Program Fund. – There is hereby established the women, infants, and children (WIC) fund. The fund shall be composed of food rebates, including but not limited to, infant formula and baby food, purchased under the WIC program established pursuant to this chapter. The fund shall be nonlapsing and shall be continually appropriated to the commissioner of the department of health and human services for the purposes of continuous support for the WIC program as required by federal law and regulations.

Source. 2009, 68:1, eff. Aug. 8, 2009.

Section 132:13

132:13 Children With Special Health Care Needs. –

I. Services provided for children with special health care needs in accordance with RSA 132:2, X, shall include location, diagnoses, hospitalization, medical, surgical, corrective, and other services and care of such children.

II. In this chapter, "children with special health care needs" means children who have or are at risk for chronic physical, developmental, behavioral, or emotional conditions and who also require health and related services of a type or amount beyond that required by children generally.

Source. 1937, 58:2. RL 150:13. RSA 132:13. 1986, 198:18. 2004, 21:1, eff. June 4, 2004.

Section 132:14

132:14 Limitation of Provisions. – Nothing in this chapter shall be construed as authorizing any public official, agent, or representative, in carrying out any provision of this chapter, to take charge of any child, or to provide services to any child, over the objection of either the father or the mother of such child, or of the person standing "in loco parentis" to such child, except pursuant to a proper court order. Nothing in this chapter shall affect the operation of RSA 186 or 200 or any other law providing maternal or child health services.

Source. 1937, 58:1, 2. RL 150:14. RSA 132:14. 1986, 198:19, eff. Aug. 2, 1986.

Section 132:15

132:15 Penalties. – Any person committing a fraud on the women, infants, and children program under RSA 132:12-a shall be charged under RSA 638:15. Any person violating any other provision of this subdivision or any rule adopted under this subdivision shall be guilty of a misdemeanor.

Source. 1911, 121:3. PL 128:11. 1937, 58:2. RL 150:15. RSA 132:15. 1981, 307:3, eff. Aug. 15, 1981.

Section 132:16

132:16 Reports Required. – [Repealed 1986, 198:23, XXXV, eff. Aug. 2, 1986.]

Section 132:17

132:17 Information as to Schools. – [Repealed 1986, 198:23, XXXVI, eff. Aug. 2, 1986.]

Prenatal Tests

Section 132:18

132:18 Testing for Syphilis. – [Repealed 1986, 198:23, XXXVI, eff. Aug. 2, 1986.]

[Subdivision heading preceding RSA 132:19 repealed by 2010, 368:1(12), effective December 31, 2010.]

Perinatal Alcohol, Tobacco, and Other Drug Use Task Force

Section 132:19

[RSA 132:19 repealed by 2010, 368:1(12), effective December 31, 2010.]

132:19 Task Force Established; Membership. –

I. There is established the perinatal alcohol, tobacco, and other drug use task force. The task force shall be composed of the following members:

- (a) Two members of the house of representatives, appointed by the speaker of the house.
- (b) Two members of the senate appointed by the president of the senate.
- (c) The director of the office of alcohol and drug abuse prevention, or designee.
- (d) An employee of the department of health and human services who is responsible for public health, appointed by the commissioner of health and human services.
- (e) An employee of the department of health and human services who is responsible for mental health and developmental services, appointed by the commissioner of health and human services.
- (f) An employee of the department of health and human services who is responsible for children, youth and families, appointed by the commissioner of health and human services.
- (g) Two members from the medical community, preferably 2 obstetricians, one representing

the New Hampshire chapter of the American College of Obstetricians and Gynecologists (ACOG), appointed by the governor.

(h) The director of the division of educational improvement, department of education.

(i) The chairperson of the state liquor commission, or designee.

(j) A representative of the New Hampshire Family Planning Council, appointed by such council.

(k) A registered nurse who practices in the area of community perinatal health or substance abuse treatment services, appointed by the New Hampshire Nurses Association.

(l) A midwife, appointed by the New Hampshire chapter of the American College of Nurse Midwives.

(m) Two representatives from substance abuse treatment services, appointed by the director of the office of alcohol and drug abuse prevention.

(n) Four public members, one of whom shall be a woman who has recovered from perinatal substance abuse and one of whom shall be a person from the field of early intervention, appointed by the governor.

II. The term of office for members of the task force, except those appointed under subparagraphs I(g), (j), (k), (l), (m), and (n), shall be coterminous with the term of office in the position that qualifies that member to be a member of the task force. The term of office of each member appointed under subparagraphs I(g), (j), (k), (l), (m), and (n) shall be 2 years and until a successor is appointed and qualified.

III. The task force shall elect, from among its members, a person who is not a legislator to be chairperson and a person who is a legislator to be vice chairperson.

Source. 1992, 234:2. 1993, 84:2, 3. 1994, 212:2. 1995, 310:182. 1997, 20:2, eff. June 24, 1997.

Section 132:20

[RSA 132:20 repealed by 2010, 368:1(12), effective December 31, 2010.]

132:20 Duties of Task Force; Report. –

The duties of the task force shall be as follows:

I. Conduct a continuing investigation and study of the problems of alcohol, tobacco, and other drug use as they relate to pregnant women and their infants and recommend legislative action to provide necessary relief.

II. Cooperate and collaborate with other state agencies addressing these problems.

III. Hold such public hearings as may be necessary on matters pertaining to alcohol, tobacco, and other drug abuse by pregnant women. Such hearings may be conducted in any part of the state as circumstances require.

IV. Submit an annual report detailing the findings and actions taken by the task force to the speaker of the house, the president of the senate and the governor beginning one year after the effective date of this act.

Source. 1992, 234:2. 1997, 20:3, eff. June 24, 1997.

Section 132:21

[RSA 132:21 repealed by 2010, 368:1(12), effective December 31, 2010.]

132:21 Compensation. –

The members of the committee shall serve without compensation, except the legislative members shall receive mileage at the legislative rate when attending to the duties of the committee.

Source. 1992, 234:2, eff. July 12, 1992.

Live-Birth Infants Protection Act

Section 132:22

132:22 Title. – This subdivision shall be known and may be cited as the Live-Birth Infants Protection Act.

Source. 2001, 219:1, eff. Sept. 9, 2001.

Section 132:23

132:23 Definition. –

I. In this subdivision "live-birth" means the complete expulsion or extraction from its mother of a product of a human conception, irrespective of the duration of the pregnancy, which after such expulsion or extraction, breathes, or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached.

II. The definition under paragraph I shall apply whether the expulsion or extraction occurs as a result of natural or induced labor, cesarean section, or induced abortion.

Source. 2001, 219:1, eff. Sept. 9, 2001.

Parental Notification Prior to Abortion

Section 132:24-28

132:24 to 132:28 Repealed. – [Repealed 2007, 265:1, eff. June 29, 2007.]

Maternal Mortality Review Panel

Section 132:29

132:29 Definitions. – In this subdivision, "maternal mortality" means the following:

I. "Pregnancy-related" means the death of a woman while pregnant or within one year of the end of pregnancy, irrespective of the duration and site of the pregnancy, from any cause related

to or aggravated by her pregnancy or its management, but not from accidental or incidental causes.

II. "Pregnancy-associated death" means the death of a woman while pregnant or within one year of the end of pregnancy, irrespective of cause.

III. "Pregnancy-associated, but not pregnancy-related" means the death of a woman while pregnant or within one year of the end of pregnancy due to a cause unrelated to pregnancy.

Source. 2010, 129:2, eff. Aug. 8, 2010.

Section 132:30

132:30 Maternal Mortality Review Panel Established. –

I. There is established a maternal mortality review panel to conduct comprehensive, multidisciplinary reviews of maternal deaths in New Hampshire for the purpose of identifying factors associated with the deaths and to make recommendations for system changes to improve services for women in the state. The panel shall consist of:

(a) Two members from the New Hampshire chapter of the American College of Obstetricians and Gynecologists, one of whom shall be a generalist obstetrician, and one of whom shall be a maternal fetal medicine specialist.

(b) One member from the New Hampshire chapter of the American Academy of Pediatrics, specializing in neonatology.

(c) One member from the New Hampshire chapter of the American College of Nurse-Midwives.

(d) One member from the New Hampshire section of the Association for Women's Health, Obstetric and Neonatal Nurses.

(e) The administrator of maternal and child health who also is the Title V director, division of public health services, department of health and human services.

(f) An epidemiologist from the department of health and human services with experience analyzing perinatal data, or designee.

(g) A representative of the community mental health centers.

(h) A public member.

(i) The chief medical examiner, or designee.

II. Each member in subparagraphs I(a)-(h) shall be appointed by the commissioner of health and human services, or designee, in collaboration with the organizations listed in paragraph I.

III. The term of each member shall be 3 years and the terms shall be staggered. The chair shall be appointed by the commissioner. The initially appointed chair shall call the meeting and panel together and shall serve as chair for 6 months, after which time, the panel shall elect its chair. Members of the panel shall receive no compensation.

IV. The commissioner may delegate to the Northern New England Perinatal Quality Improvement Network (NNEPQIN) the functions of collecting, analyzing, and disseminating maternal mortality information, organizing and convening meetings of the panel, and other substantive and administrative tasks as may be incident to these activities. The activities of NNEPQIN and its employees or agents shall be subject to the same confidentiality provisions as those that apply to the panel.

V. The commissioner shall submit an annual report beginning on June 1, 2011 to the oversight committee on health and human services describing adverse events reviewed by the panel,

including statistics and causes, and outlining, in aggregate, corrective action plans, and making recommendations for system change and legislation relative to state health care operations.

VI. (a) The panel, in collaboration with the commissioner of the department of health and human services, or designee, shall conduct comprehensive multidisciplinary reviews of the maternal mortality deaths, as defined in RSA 132:29, I-III, in New Hampshire.

(b) Each member of the panel shall be responsible for the dissemination of panel recommendations to his or her respective institutions and professional organizations. All such information shall be disseminated through each participant's quality assurance program in order to protect the confidentiality of all participants and patients involved in any incident.

(c) The panel shall not:

(1) Call witnesses or take testimony from individuals involved in the investigation of a maternal death.

(2) Enforce any public health standard or criminal law or otherwise participate in any legal proceeding, except if a member of the team is involved in the investigation of the death or resulting prosecution and must participate in a legal proceeding in the course of performing in his or her duties outside the team.

(d) Proceedings, records, and opinions of the maternal mortality review panel are confidential, not subject to RSA 91-A, and not subject to discovery, subpoena, or introduction into evidence in any civil or criminal proceeding. Nothing in this subparagraph shall be construed to limit or restrict the right to discover or use in any civil or criminal proceeding anything that is available from another source and entirely independent of the proceedings of the panel.

(e) Members of the panel shall not be questioned in any civil or criminal proceeding regarding information presented in or opinions formed as a result of a meeting of the team. Nothing in this subparagraph shall be construed to prevent a member of the panel from testifying to information obtained independently of the team or which is public information.

VII. The commissioner of the department of health and human services, with the advice and recommendation of a majority of members of the panel, shall adopt rules, pursuant to RSA 541-A, relative to the following:

(a) The system for identifying and reporting maternal deaths to the commissioner, or designee.

(b) The form and manner through which the program may acquire information under RSA 132:31.

(c) The protocol to be used in carefully and sensitively contacting a family member of the deceased woman for a discussion of the events surrounding the death, allowing grieving family members to refuse such an interview.

(d) Assuring de-identification of all individuals and facilities involved in the panel review of cases.

Source. 2010, 129:2, eff. Aug. 8, 2010.

Section 132:31

132:31 Acquisition of Information Related to Maternal Mortality. –

I. If a root cause analysis of a maternal mortality event has been completed, such findings shall be included in the records supplied to the review panel.

II. Health care providers, health care facilities, clinics, laboratories, medical records departments, and state offices, agencies and departments shall report all maternal mortality deaths as defined in RSA 132:29, I-III to the chair of the panel and the commissioner, or designee. The commissioner shall have access to individually identifiable information relating to the occurrence of maternal deaths only on a case-by-case basis where public health is at risk. This information includes, but is not limited to: vital records, hospital discharge data, prenatal, fetal, pediatric, or infant medical records, hospital or clinic records, laboratory reports, records of fetal deaths or induced terminations of pregnancies, and autopsy reports. The same case information may be acquired from health care facilities, maternal mortality review programs, and other sources in other states to ensure that its records of New Hampshire maternal mortality cases are accurate and complete. The chair shall not acquire and retain any individually identifiable information.

III. The commissioner, or designee, may retain identifiable information regarding facilities where maternal deaths occur and geographical information on each case solely for the purposes of trending and analysis over time. Pursuant to RSA 132:30, VII(d), identifiable information on all individuals and facilities shall be removed prior to any case review by the panel.

Source. 2010, 129:2, eff. Aug. 8, 2010.