

## CHAPTER 126-Q

### NEW HAMPSHIRE VACCINE ASSOCIATION

126-Q:1 Definitions. In this chapter:

- I. "Association" means the New Hampshire vaccine association.
- II. "Commissioner" means the commissioner of the department of health and human services.
- III. "Covered lives" shall have the same meaning as defined in RSA 404-G:2, V.
- IV. "Estimated vaccine cost" means the estimated cost to the state over the course of a state fiscal year of the purchase, distribution, and administration of vaccines purchased at the federal discount rate by the department of health and human services.
- V. "Health insurance" shall have the same meaning as defined in RSA 404-G:2, VII.
- VI. "Licensed insurer" means any entity licensed pursuant to RSA 402, RSA 420-A, or RSA 420-B. "Licensed insurer" shall not include the New Hampshire Individual Health Plan Benefit Association.
- VII. "Total non-federal program cost" means the estimated vaccine cost less the amount of federal revenue available to the state for the purchase, distribution, and administration of vaccines.
- VIII. "Vaccine" means any preparations of killed microorganisms, living attenuated organisms, or living fully virulent organisms that are approved by the federal Food and Drug Administration and recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention and have been authorized by the commissioner of the department of health and human services for administration to children of the state of New Hampshire under the age of 19 years for the purposes of producing or artificially increasing immunity to particular life-threatening and disabling diseases.

126-Q:2 Creation of Association. There is hereby created a nonprofit corporation to be known as the New Hampshire vaccine association. The association is formed to assess insurers for the cost of vaccines provided to certain children in New Hampshire.

126-Q:3 Membership, Powers, and Duties of the New Hampshire Vaccine Association.

- I. The New Hampshire vaccine association shall be comprised of all licensed insurers currently writing or maintaining health insurance in New Hampshire.
- II. The New Hampshire vaccine association shall be a not-for-profit, voluntary corporation under RSA 292 and shall possess all general powers of a not-for-profit corporation.

III. The board of directors shall include:

(a) Three representatives selected from the licensed insurers having the most covered lives in New Hampshire.

(b) Two health care provider representatives appointed by the commissioner.

(c) The commissioner of the department of health and human services, who shall serve as an ex-officio member.

(d) The commissioner of the department of insurance who shall serve as an ex-officio member.

IV. The directors' terms and appointments shall be specified in the plan of operation adopted by the New Hampshire vaccine association.

V. The board of directors of the association shall:

(a) Prepare and adopt articles of association and bylaws.

(b) Prepare and adopt a plan of operation.

(c) Submit the plan of operation to the commissioner of insurance for approval after the consultation with the commissioner.

(d) Conduct all activities in accordance with the approved plan of operation.

(e) On an annual basis, no later than November 1 of each year, establish the amount of the assessment.

(f) Enter into contracts as necessary or proper to collect and disburse the assessment.

(g) Enter into contracts as necessary or proper to administer the plan of operation.

(h) Sue or be sued, including taking any legal action necessary or proper for the recovery of any assessment for, on behalf of, or against members of the association or other participating person.

(i) Appoint from among its directors, committees as necessary to provide technical assistance in the operation of the association, including the hiring of independent consultants as necessary.

(j) Notify, in writing, each licensed insurer of the insurer's assessment by November 15 of each year.

(k) Submit an annual report to the commissioner of insurance listing those licensed insurers that failed to remit their assessments.

(l) Allow each insurer up to 90 days after the notification required by subparagraph (j) to remit its assessment or submit an assessment payment plan, subject to approval by the association and initial payment under an approved assessment payment plan.

(m) Deposit annual assessments collected by the association less the association's administrative costs with the state treasurer to the credit of the vaccine purchase fund established pursuant to RSA 141-C:17-a.

(n) Perform any other functions as may be necessary or proper to carry out the plan of operation.

#### 126-Q:4 Assessment Determination.

I. The commissioner shall calculate the total non-federal program cost no later than October 1 of each year.

II. The board shall determine the amount to be raised by the association by multiplying the ratio of the number of covered lives to the total number of non-elderly New Hampshire residents by the total non-federal program cost.

III. For any year in which the total calculated cost to be received is less than the anticipated cost for vaccines, the association shall pay the amount of the increase to the state.

**Source:** 2005, 177:112.

IV. Each licensed insurer shall be assessed in proportion to the number of its covered lives.

V. The aggregate amount to be raised by the association shall include credit for any surpluses remaining from prior years, as well as reasonable costs for the association's administration.

126-Q:5 Powers and Duties. In addition to the duties and powers enumerated elsewhere in this chapter:

I. The commissioner of insurance shall fine any licensed insurer that fails to pay an assessment within 6 months of notification under RSA 126-Q:3, V(j). The fine shall be at least \$5,000 and no more than 125 percent of the amount of the delinquent assessment. Fines so levied shall be deposited with the state treasurer to the credit of the vaccine purchase fund established pursuant to RSA 141-C:17-a.

II. The commissioner and the commissioner of insurance may adopt rules, pursuant to RSA 541-A, as necessary to carry out the purposes of this chapter.

126-Q:6 Examinations and Annual Reports. The board of directors shall submit to the commissioner, no later than 120 days after the close of the association's fiscal year, a financial report in a form approved by the commissioner.

126-Q:7 Exemption from Taxes. The association shall be exempt from payment of all fees and all taxes levied by this state or any of its subdivisions, except taxes levied on real property.

126-Q:8 Immunity from Liability. There shall be no liability on the part of and no cause of action of any nature shall arise against any association member or its agents or employees, the association or its agents or employees, members of the board of directors, or the commissioner or the commissioner's representatives, for any action or omission by them in the performance of their powers and duties under this chapter.

126-Q:9 Severability of Chapter. If any provisions of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provisions or applications, and to this end the provisions of this chapter are severable.

279:3 Effective Date. This act shall take effect 30 days after its passage.

(Approved: May 18, 2002)

(Effective Date: June 17, 2002)