Bill as Introduced

HB 462-FN - AS INTRODUCED

2001 SESSION

01-0752
05/09

HOUSE BILL ***462-FN***

AN ACT requiring state regulatory boards, commissions, advisory boards, advisory committees, and authorities to develop an orientation manual for new members.

SPONSORS: Rep. Emerton, Hills 7

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill requires state regulatory boards, commissions, advisory boards, advisory committees, and authorities to develop an orientation manual for new members.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

01-0752
05/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand One

AN ACT requiring state regulatory boards, commissions, advisory boards, advisory committees, and authorities to develop an orientation manual for new members.

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

1 Statement of Intent. It is the intent of the legislature that all newly appointed members of state regulatory boards, commissions, advisory boards, advisory committees, and authorities shall receive training in their duties and responsibilities. Recognizing that each of these entities has a unique charge, the legislature finds that it is most appropriate for their members to develop, distribute and update an orientation manual specific to their individual duties and practices.

2 New Chapter; Orientation Manual for Boards and Commissions. Amend RSA by inserting after chapter 20-A the following new chapter:

CHAPTER 20-B

BOARDS AND COMMISSIONS MEMBER ORIENTATION

20-B:1 Orientation Manual.

I. Every state regulatory board, commission, advisory board, advisory committee, or authority shall develop an orientation manual for its new members. The orientation manual shall include information about the business procedures of the regulatory board, commission, advisory board, advisory committee and authority. Such procedures shall include the mailing address and phone number of the office, a list of the members and staff, the customary meeting schedule, and any other pertinent information.

II. The following additional documents shall accompany each orientation manual. Such documents shall include but shall not be limited to:

(a) The enabling statutes and rules of the regulatory board, commission, advisory board, advisory committee, and authority.

(b) Other statutes governing subjects within the jurisdiction of the regulatory board, commission, advisory board, advisory committee, and authority.

(c) Case law relative to areas within the jurisdiction of the board, commission, advisory board, advisory committee, and authority.

(d) A copy of RSA 91-A, a copy of RSA 541-A, a copy of RSA 541, a copy of RSA 21-G:5-a, and a copy of the most recent guidelines for hearings officers produced by the department of justice.

20-B:2 Updating Orientation Manual. The members of every regulatory board, commission, advisory board, advisory committee, and authority shall review and update the new member orientation manual annually to ensure that all of its components are current and complete.

3 Effective Date. This act shall take effect 60 days after its passage.

LBAO
01-0752
1/31/01

HB 462-FN - FISCAL NOTE

AN ACT requiring state regulatory boards, commissions, advisory boards, advisory committees, and authorities to develop an orientation manual for new members.

FISCAL IMPACT:

The Department of Administrative Services and the Secretary of State have determined this bill will increase state revenue and expenditures in FY 2001 and each year thereafter. There will be no fiscal impact on county and local revenue or expenditures.

METHODOLOGY:

The Department of Administrative Services and Secretary of State stated that costs will be incurred with research, copying and updating of a manual. Costs will be offset by increased revenue generated by board fees.

The Department of Health and Human Services stated this bill will have no fiscal impact on any board attached to the Department.

Speakers

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB 462-FN Date 3-14-01

Committee E D+A

**** Please Print All Information ****

Name	Address	Phone	Representing	Pro	Con
Donna Soucy	18 Centre St Concord		NH Assoc of Realtors	✓	
Donna Soucy	18 Centre St Concord		NH Dental Society	✓	
JOHN P. BROWN, JR	44 N. MAIN ST, NEWPORT	863-1991	SELF	✓	

Hearing Minutes

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

PUBLIC HEARING ON HB 462-FN

BILL TITLE: requiring state regulatory boards, commissions, advisory boards, advisory committees, and authorities to develop an orientation manual for new members.

DATE: March 14, 2001

LOB ROOM: 100 SH **Time Public Hearing Called to Order:** 1:51 PM

Time Adjourned: 2:25 PM

(please circle if present)

Committee Members: Reps. Peterson, Dyer, Langer, Goulet, Hamel, Poulin, Zolla, Dodge, Allan, Cummings, Dexter, C. Hall, Robertson, Lent, Landers, Andosca, Clayton, Pawlek, Schulze and Drabinowicz.

Bill Sponsors: Rep. Emerton, Hills 7

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Emerton, sponsor. Rep. Dyer and he filed a bill last year doing the same as this one. It did not pass because others realized that it might be an intrusion into their area and there might be an additional cost. The idea is to prepare orientation instructions for new members.

George Roberts, lobbyist. 4 Park Street, Concord, 224-8982. Supports bill. May have to come back sometime in future to "polish this production". Doesn't see any conflict of interest in this subject.

John Brown, Jr, 44 No. Main St., Newport, 863-1991. A licensed psychologist wishes to express his strong support plus proposed amendments. Might be intrusive. Looks like amendment refers to ethical standards and other guidelines. This provides him a means of complaining about how he has been treated over the past seven years.

Respectfully submitted,

Ray L. Langer

Rep. Ray Langer, Clerk

Testimony

John P. Brown, Jr., Ph.D.
P.O. Box 642
44 North Main Street
Newport, New Hampshire 03773

Psychologist
Phone/Fax: (603) 863-1991
E-Mail: JPBrownJr@AOL.com

March 14, 2001

Honorable Andrew R. Peterson, Chairman
Executive Departments and Administration Committee
New Hampshire House of Representatives

RE: Support and minor revisions for HB 462-FN

Representative Peterson:

I respectfully submit to you and members of your committee the following supportive input for HB 462-FN. I would welcome any opportunity to elaborate in testimony before your committee and before the Senate counterpart to your committee.

I strongly support HB 462-FN with three minor amendment suggestions. The enactment of HB 462-FN, with or without my suggested amendments, would represent a significant step toward improving the quality and accountability of government in this state. Informal and often woefully inadequate orientation by more experienced agency peers (i.e., an introduction to groupthink) would be replaced by a more formal, complete, and accountable orientation to the agency's controlling statutes, rules and case law. Uncertainty and discomfort on the part of conscientious new agency members would be reduced in the most quality-enhancing manner possible at minimal expense to the state.

Amendment suggestions:

Proposed RSA 20-B:1, II (d) should replace "RSA 21-G:5-a" with "*RSA 21-G*" for reasons that I hope to make clear below with respect to unlawful advisory committees, openness and public accountability. RSA 21-G is not unduly long or complex and contains highly relevant statements of legislative intent and specific guidance above and beyond the narrow, albeit extremely important issue of RSA 21-G:5-a.

Proposed RSA 20-B:1, II should add the following *"(e) Current professional ethical standards and any other concise written guidelines, other than rules or statutes, relied upon pursuant to the enabling statutes and rules of the regulatory board, commission, advisory board, advisory committee, and authority but not otherwise incorporated verbatim in any (a) through (d) documents."* Regulatory board members should have ready access to the exact language of ethical standards rather than relying upon vague recollections or peer opinions.

The committee is urged to add the following section:

"*20-B:3 Maintaining orientation manual for inspection. Every regulatory board, commission, advisory board, advisory committee and authority shall maintain at least one continuously updated new member orientation manual for reference at any time by members and, with suitable prior arrangement, by the public.*" At least one copy should be maintained for easy access during meetings by new and old agency members. Major revisions may take place between annual reviews and should be promptly incorporated in office reference copies of the orientation manual. Public access to the same manual used by agency members would encourage public confidence in open government and inhibit deviations from rule of law by agency members.

Background for my support for HB 462-FN:

I am a psychologist whose livelihood in New Hampshire is regulated by the Board of Mental Health Practice ("Board"), one of the state agencies addressed by HB 462-FN - perhaps the state regulatory board whose members, old as well as new, are most in need of an orientation manual. I was once a newspaper columnist and a public critic of dangerous or inefficient mental health services which were then apparently popular with certain Board members but which have since been discredited. I became a critic of the Board only as evidence of violations of public trust began to accumulate.

Over the past seven years I have endured at the hands of this state board treatment that no regulated professional should ever again be subjected to in New Hampshire or anywhere else in this country. During the course of my ordeal I have discovered a great deal of additional information unrelated to me concerning systematic violations of public trust by members of this board. As I expect to see proven in future hearings, the public has not been adequately protected, regulated professionals have been treated arbitrarily and capriciously, and rule of law has been embarrassingly undermined by the Board.

The orientation manual prescribed by this bill might well have prevented many of the countless violations of law and public trust that members of the Board of Mental Health Practice and its predecessor board provably committed. The orientation manual would also go far in improving the performance of future Board members insofar as it provides hitherto missing guidance, elevates the standard of performance expected of new members, and improves the prospects of accountability for disregarding the guidance provided in the manual.

My nightmare at the hands of my regulatory board began in 1994 when groundless complaints against me were referred to a permanent advisory committee - the "Professional Conduct Committee" - formed without any statutory authority and in violation of RSA 21-G by what was then the Board of Examiners of Psychology and Mental Health Practice. This permanent advisory committee had no public members and, in flagrant violation of RSA 91-A, never publicly announced its regularly scheduled meetings, never held meetings with any part open to the public, and never released public minutes yet this permanent advisory committee's decisions were (and continue to be) virtually dispositive with respect to dozens of secretly processed complaints filed against regulated professionals.

When the current RSA 330-A became effective on October 31, 1998 and created lawful advisory committees defined by RSA 330-A:4, the unlawful standing committee continued meeting without interruption and no lawful advisory committees were formed. (Board minutes document the unlawful appointment of two new Professional Conduct Committee members on January 19, 2001.) Administrative rules recently proposed by the Board to replace its long-lapsed (and previously rejected) rules nowhere mention the lawful advisory committees or their assigned roles. The Board instead defies its enabling statutes and RSA 21-G:11 by effectively claiming the right to create permanent committees solely on the Board's own authority.

Members of the Board of Mental Health Practice have long been in desperate need of an orientation manual.

When, after quite a few deviations from the Board's customary practices, the Board commenced public disciplinary proceedings against me in 1995, it was well into a 27 month period during which there were no public members in attendance at any Board meetings. Two psychologists were still voting members of the Board even though their terms of appointment had long since expired with no evidence that they had even requested reappointment. One of these two psychologists ended up serving two full years beyond his term expiration without reappointment despite being the recipient of a profoundly troubling complaint still kept secret by his board colleagues.

New Board members accountably in possession of an orientation manual would be less likely to yield to peer pressure or ignorance to completely overlook such flagrant and longstanding deviations from statutes and legislative intent.

Nearly a year after concluding public disciplinary proceedings that one would be hard pressed to characterize as either lawful or impartial, the Board in September 1996 bizarrely used, without any advance notice or justification in the record, the twice replaced 1981 ethical standards of the American Psychological Association to not only suspend my psychologist credentials for five years but to also order me to take non-existent graduate classes in the treatment of borderline personality disorder and to obtain 100 hours of personal therapy. When my motion for reconsideration pointed out that the Board's controlling statutes and rules did not permit it to order me to pursue long term therapy - and that nothing in the record justified any therapy at all - the motion was entirely rejected in an unnoticed, non-quorum meeting prominently featuring an unrecused psychologist with questionable competence and a huge undisclosed conflict (documentation and details available). The Board's hostile 1996 decisions mentioned neither the names nor testimony of my supporting witnesses which included the Sullivan County Attorney, the police chief of Newport, a lawyer personally familiar with the sordid origins of the complaints against me, a psychologist and a psychiatrist. Only complainant "EB" - already stipulated by the Board to have difficulty distinguishing between reality and fantasy - and her ongoing therapist (and my hostile competitor), Dr. Steven Ness provided opposing testimony used by the Board. My concurrent complaints against Dr. Ness were kept secret by the Board and summarily dismissed.

In June 1999 it became public knowledge that Dr. Ness and his long-term patient, EB, had both deceived the Board under oath to my extreme detriment in 1995, midway through their nearly three year therapist-patient sexual relationship. Undeterred by the loss of all opposing testimony, the Board secretly reopened my case on June 18, 1999 to communicate ex-parte instructions to the Board's prosecutor to initiate - without any remotely adequate prior investigation - another public hearing against me. The ensuing charade could be used to justify the removal and/or severe sanctioning of all sitting Board members: a solitary Board member denied me access to undeniably relevant records and testimony, a hearing was held with no (*zero*) accusers or even proxy accusers subject to my confrontation, and a final decision was issued without any individual rulings on proposed findings of fact and conclusions of law submitted in response to an order by the presiding officer. The Board reaffirmed the loss of my license for several years despite the understandable refusal of the complainant to testify, the Board's own understandable refusal to permit me to obtain Dr. Ness as a witness, and the Board's being informed yet again that the complainant went five years without psychiatric hospitalization while involved with me in contrast to frequent life threatening emergencies and psychiatric hospitalizations before *and* after my involvement.

The Board's history in recent years is actually considerably worse than my brief summary here might suggest. I make that statement with confidence in my ability to prove every assertion made by me despite my access to only a small part of the information that a legislative committee with subpoena powers could obtain.

An orientation manual for new members could help break through self-serving groupthink, willful ignorance of controlling law, and perceived immunity from external accountability so characteristic of rogue agencies. The Board of Mental Health Practice merits more detailed attention elsewhere - in conjunction with HB 665 (retaliation against board critics), HB 109 (consumer protection adequacy) and HB 499 (right-to-know for advisory committees), for example, but for now I believe it stands as clear evidence of the need for the orientation manuals required by HB 462-FN.

I am sending a courtesy copy of this written input to the Board to afford the Board an opportunity to rebut my arguments in support of this bill. Should the Board dispute any of my preceding assertions or attempt to discredit me with selective recitation of unmade findings of fact out of context, I would welcome further investigation by your committee, possibly in association with hearings on HB 665.

Respectfully submitted,

John P. Brown, Jr., Ph.D.

State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES
6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-3503 FAX (603) 271-5171

March 14, 2001

Representative Andrew Peterson, Chairman
Executive Departments and Administration Committee
State House 100
Concord, NH 03301

Re: HB 462, relative to requiring state regulatory boards, commissions, advisory boards, advisory committees, and authorities to develop an orientation manual for new members

Dear Representative Peterson:

Thank you for the opportunity to comment on HB 462, relative to requiring state boards, commissions, and authorities to develop orientation manuals for new members. The Department of Environmental Services ("DES") agrees that new members of such boards, commissions, and authorities should be provided with appropriate guidance on their new responsibilities, but questions whether enacting a statutory requirement is necessary.

Individuals appointed to state boards, commissions, or other such authorities typically have some experience in the area covered by the authority, but also typically they are not that familiar with the details of how the authority conducts its business. An orientation manual that includes such details provides information to newly appointed members to come up to speed more quickly and so should enhance the efficiency of the authority.

DES supports the activities of at least eight councils and boards that would be subject to the provisions proposed by HB 462[1] and we already provide much, if not most, of the information that is required as part of an orientation manual for the new member of these groups. We believe this is the case for the vast majority of other state agencies, as well. While we do not disagree with the direction or the underlying motivation of HB 462, we do question whether this is a subject that requires a statutory requirement applicable to all state boards and commissions. It may be preferable for the Legislature to urge the executive branch to provide orientation manuals for members of boards and commissions, and then monitor whether this is being done appropriately.

If you have any questions regarding this testimony, please contact me or Gretchen Rule, DES Legal Unit Administrator, at 271-3503.

Sincerely,

Robert W. Varney
Commissioner

cc: Representative Larry Emerton

[1] Air Resources Council, Waste Management Council, Water Council, Water Resources Council, Wetlands Council, Water Well Board, Energy Facilities Site Evaluation Committee, and Oil Fund Disbursement Board

Session Name: 2001-03-14 Division: ED&A Location: SH100
Session date: 2001/03/14 Session time: 08:43
Chair: Peterson, Andrew

Meeting: 0006

Meeting Number:
Agenda: HB462
Co-Agendas:
Member List:
Member 1:
Member 2:

2001/03/14
13:51:09 - Operator
Record:
13:51:10 - New case
HB462
13:51:37 - Other: Rep Emerton Sponsor
13:59:30 - Other: George Roberts Supports
14:04:43 - Other: Rep Dexter Q
14:05:08 - Other: Rep Peterson Q
14:07:07 - Other: John Brown Supports
14:18:16 - Other: Rep Peterson comments
14:19:27 - Other: Rep Lent Q
14:20:29 - Other: Rep _Peterson Q
14:23:58 - Other: Rep _Pawlek Q
14:26:17 - Operator
Stop:

Voting Sheets

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

EXECUTIVE SESSION on HB 462-FN

BILL TITLE: **requiring state regulatory boards, commissions, advisory boards, advisory committees, and authorities to develop an orientation manual for new members.**

DATE: 4-11-2001

LOB ROOM: 100 SH

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.) Retain OK.

Moved by Rep. Dexter

Seconded by Rep. Pawlik

Vote: (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE:

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Ray F. Langer, Clerk

OFFICE OF THE HOUSE CLERK

2001 SESSION

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

Bill #: HB 462 Title: _____

PH Date: ___/___/___ Exec Session Date: 4/11/2001

Motion: Retain Amendment #: _____

MEMBER	YEAS	NAYS
Peterson, Andrew R, Chairman		
Dyer, Merton S, V Chairman		
Langer, Ray F, Clerk		
Goulet, Maurice E		
Hamel, Albert W		
Poulin, David G		
Zolla, William R		
Dodge, Robert K		
Allan, Nelson S		
Cummings, Raymond C		
Dexter, Judson K		
Hall, Charles Q		
Robertson, Carl G		
Lent, Donald R		
Landers, Dana L		
Andosca, Mary L		
Clayton, William K		
Pawlek, Marion J		
Schulze, Joan H		
Drabinowicz, A Theresa		
TOTAL VOTE:		

Printed: 1/26/2001

EXECUTIVE SESSION

COMMITTEE ED + A

BILL NUMBER HB 462 PM

BILL TITLE: DEVELOPING AN ORIENTATION MANUAL

DATE: 11/14/01 **LOB ROOM:** 100 54

Amendments:

Sponsor: Rep. _____ OLS Document #: _____ Adopted/Failed

Sponsor: Rep. _____ OLS Document #: _____ Adopted/Failed

Sponsor: Rep. _____ OLS Document #: _____ Adopted/Failed

Motions: (OTP) OTP/A, ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep. HAMEL

Seconded by Rep. GOULET

Vote: 13-0 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep. _____

Seconded by Rep. _____

Vote: _____ (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: 13-0

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. CARL ROBERTSON, Clerk

OFFICE OF THE HOUSE CLERK 2001 SESSION

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

Bill #: HR 462 FM Title: DEVELOPING AN ORIENTATION MANUAL

PH Date: ____/____/____ Exec Session Date: 11 / 14 / 01

Motion: OTP Amendment #:

MEMBER	YEAS	NAYS
Peterson. Andrew R. Chairman		
Dver. Merton S. V Chairman	1	
Langer. Rav F. Clerk		
Goulet. Maurice E	2	
Hamel. Albert W	3	
Zolla. William R	4	
Allan. Nelson S	5	
Cummings. Ravmond C	6	
Dexter. Judson K		
Hall. Charles Q	7	
Robertson. Carl G	8	
Lent. Donald R	9	
Landers. Dana L	10	
Andosca. Marv L	11	
Clavton. William K	12	
Pawlek. Marion J		
Schulze. Joan H		
Drabinowicz. A Theresa	13	
TOTAL VOTE: 13-0	13	0

Printed: 11/13/2001

Committee Report

COMMITTEE REPORT

COMMITTEE: **Executive Departments and Administration**

BILL NUMBER: **HB 462-FN**

TITLE: requiring state regulatory boards, commissions, advisory boards, advisory committees, and authorities to develop an orientation manual for new members.

DATE: December 4, 2001 CONSENT CALENDAR YES ☒ NO ☐

☒ OUGHT TO PASS

☐ OUGHT TO PASS WITH AMENDMENT

☐ INEXPEDIENT TO LEGISLATE

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

This bill will require commissions, boards and advisory committees to develop an orientation manual for the members and future appointees. This manual should contain a copy of RSA 91-A, Right to Know Law, a copy of the New Hampshire Constitution, a copy of the statute establishing the "Board" and any other material that will allow the new members to know what their duties are and how they should conduct their meetings and adjudicative hearings if they are required to hold such hearings.

Vote 13-0.

Rep. Merton S. Dyer
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

CONSENT CALENDAR

Executive Departments and Administration

HB 462-FN, requiring state regulatory boards, commissions, advisory boards, advisory committees, and authorities to develop an orientation manual for new members. **OUGHT TO PASS**

Rep. Merton S. Dyer for Executive Departments and Administration: This bill will require commissions, boards and advisory committees to develop an orientation manual for the members and future appointees. This manual should contain a copy of RSA 91-A, Right to Know Law, a copy of the New Hampshire Constitution, a copy of the statute establishing the "Board" and any other material that will allow the new members to know what their duties are and how they should conduct their meetings and adjudicative hearings if they are required to hold such hearings **Vote 13-0**.

Blurb HB 462-FN

The bill will require Commissions, Boards, and advisory committees to develop an orientation manual for the members and future appointees. This manual should contain a copy of RSA 91-A, Right to Know Law, a copy of the New Hampshire Constitution, a copy of the statute establishing the "Board" and any other material that will allow the new members know what their duties are and how they should conduct their meetings and adjudicative hearings, if they are required to hold such hearings

12/7/2001 MSD