

HB 1409 - AS INTRODUCED

2022 SESSION

22-2734

05/11

HOUSE BILL **1409**

AN ACT relative to the age at which a minor may receive mental health treatment without parental consent.

SPONSORS: Rep. Klein-Knight, Hills. 11; Rep. Moran, Hills. 34; Rep. Espitia, Hills. 31; Rep. Rogers, Merr. 28; Rep. Marsh, Carr. 8; Rep. Burroughs, Carr. 1; Rep. M. Murray, Hills. 22; Rep. Toll, Ches. 16; Sen. Watters, Dist 4

COMMITTEE: Health, Human Services and Elderly Affairs

ANALYSIS

This bill allows a minor 16 years of age or older to consent to mental health treatment without parental consent. The bill also allows for reimbursement of such services from the uncompensated care and Medicaid fund.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to the age at which a minor may receive mental health treatment without parental consent.

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

1 1 New Subdivision; Mental Health Practice; Services Provided to Minors. Amend RSA 135-C by
2 inserting after section 67 the following new subdivision:

3 Mental Health Services for Minors

4 135-C:68 Mental Health Services for Minors. Any minor 16 years of age or older may
5 voluntarily submit him or herself to treatment for a mental illness as defined in the Diagnostic and
6 Statistical Manual of Mental Disorders, 5th edition (DSM-V), at any state institution or facility,
7 public or private hospital or clinic, or any other licensed clinical provider licensed by the state of New
8 Hampshire to provide mental health services pursuant to their scope of practice, without the consent
9 of a parent, guardian, or any other person charged with the care or custody of said minor. Such
10 parent or legal guardian shall not be liable to pay for any treatment rendered pursuant to this
11 section, including deductibles and copayments, however, if the minor is covered under a parent or
12 guardian's insurance, the treating facility may bill that insurance as applicable. Copayments,
13 deductibles, and uncovered services shall be billed to the state of New Hampshire and paid out of the
14 uncompensated care fund established in RSA 167:64. The treating facility, agency, or individual
15 shall keep records on the treatment given to minors as provided under this section in the usual and
16 customary manner, but no reports or records or information contained therein shall be discoverable
17 by the state in any criminal prosecution. No such reports or records shall be used for other than
18 rehabilitation, research, or statistical and medical purposes, except upon the written consent of the
19 person examined or treated. Nothing contained herein shall be construed to mean that any minor of
20 sound mind is legally incapable of consenting to medical treatment provided that such minor is of
21 sufficient maturity to understand the nature of such treatment and the consequences thereof.
22 Nothing in this subdivision shall require a licensed provider to provide services without
23 reimbursement, except as provided in RSA 151:2-g.

24 2 Emergency Services. Amend RSA 151:2-g to read as follows:

25 151:2-g Emergency Services. Every facility licensed as a hospital under RSA 151:2, I(a) shall
26 operate an emergency department offering emergency services to all individuals regardless of ability
27 to pay 24 hours every day, 7 days a week. ***If their licensure and scope of practice includes the***
28 ***provision of mental health services, this shall include the provision of emergency mental***
29 ***health services to minors pursuant to RSA 135-C:68.*** This requirement shall not apply to any

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1 hospital licensed and operating prior to July 1, 2016, which does not operate an emergency
2 department or to any new psychiatric or substance abuse treatment hospital.

3 3 Uncompensated Care and Medicaid Fund. Amend RSA 167:64, I(a)(2) to read as follows:

4 (2) Expenditure of revenues deposited to the uncompensated care and Medicaid fund
5 shall be made for the following purposes in the following order of priority in fiscal years 2018
6 through 2024. However, no hospital shall be paid uncompensated care cost payments of more than
7 100 percent of the governing hospital-specific limit on disproportional share hospital payments
8 under Title XIX of the Social Security Act and the provisions of all federal regulations promulgated
9 thereunder:

10 (A) To make uncompensated care cost payments, including the state share and
11 matching federal share, to New Hampshire hospitals with and without critical access designation in
12 the following order of priority, and in the following amounts: fiscal year 2018-a sum equaling 92.2
13 percent of money collected pursuant to RSA 84-A for the fiscal year; fiscal year 2019-a sum equaling
14 90.2 percent of money collected pursuant to RSA 84-A for the fiscal year; and fiscal years 2020
15 through 2024-a sum equaling 86 percent of money collected pursuant to RSA 84-A for the fiscal year.
16 Notwithstanding the foregoing sums for each fiscal year, in no event shall the amounts paid to
17 hospitals as uncompensated care cost hospital payments, including the New Hampshire Hospital, in
18 any particular fiscal year exceed the state share for matching the maximum state disproportionate
19 share hospital allotment established under 42 U.S.C. section 1396r-4(f) for that fiscal year plus the
20 matching federal share. If the maximum state disproportionate share hospital allotment established
21 under 42 U.S.C. section 1396r-4(f) for any fiscal year, less the uncompensated care cost hospital
22 payments to be made to New Hampshire Hospital, plus state matching funds equal to the available
23 federal state disproportionate share hospital allotment for uncompensated care cost hospital
24 payments is less than a sum equaling the percentage of money collected pursuant to RSA 84-A for
25 the fiscal year, any remaining amount, including state and federal share, of the foregoing sums
26 equaling the percentage of money collected pursuant to RSA 84-A for the fiscal year shall be paid to
27 the hospitals as supplemental Medicaid payments, MCO directed payments to hospitals, increased
28 hospital service provider rates, or any other allowable Medicaid payment:

29 (i) To support 75 percent of the uncompensated care costs of New
30 Hampshire's hospitals with critical access designation consistent with the requirements of 42 U.S.C.
31 section 1396r-4(g) and any relevant federal regulations promulgated thereunder to be shared among
32 such hospitals in proportion to the amount of uncompensated care provided;

33 (ii) To make payments for uncompensated care costs to New Hampshire's
34 hospitals without critical access hospital designation in proportion to the amount of uncompensated
35 care provided by each hospital from the sum equal to the remainder of the percentage of money
36 collected pursuant to RSA 84-A for the fiscal year specified in subparagraph (a)(2)(A).

(iii) If there is a change to the federal definition of uncompensated care costs that would result in a decrease to the calculation in subparagraph (i), the percentage of allowable uncompensated care costs for New Hampshire's hospitals with critical access designation percentage of allowable uncompensated care costs shall increase from 75 percent to a percentage that would be equivalent to their receiving 75 percent of uncompensated care costs calculated without regard to payments from Medicare or third party payers as allowable on the date of the enactment of this provision, except that no hospital shall be paid disproportionate share hospital payments of more than 100 percent of the governing hospital-specific limit on disproportional share hospital payments under Title XIX of the Social Security Act. If increasing the percentage of the allowable uncompensated care costs would exceed 100 percent of the governing hospital specific limit, any amount in excess shall be paid to the New Hampshire hospitals with critical access designation as supplemental Medicaid payments, MCO directed payments to hospitals, increased hospital service provider rates, or any other allowable Medicaid payments.

(B) To make a payment for uncompensated care costs to each hospital that meets the criteria set forth for "deemed disproportionate share hospitals" as that term is defined under 42 U.S.C. section 1396r-4 up to \$250,000 in each year of the biennium as set forth in subparagraph (b)(1)(A). For fiscal years 2018 and 2019 only, any payment under this subparagraph shall not reduce the payments made under subparagraphs (a)(2)(A)(i)-(iii).

(C) To increase hospital service provider rates in fiscal year 2020 through fiscal year 2024, by an amount equal to 5 percent of the revenue collected pursuant to RSA 84-A for the fiscal year.

(D) *To pay for deductibles, copayments, and uncovered services pursuant to RSA 135-C:68.*

(E) Any remaining funds produced from the Medicaid enhancement tax shall be used to support provider payments and to support Medicaid services and programs administered by the department.

~~[(E)]~~ **(F)** Hospitals entitled to payments under subparagraphs (a)(2)(A)(i)-(iii) or (a)(2)(C) have a vested contractual right to receive these payments in fiscal years 2018 through 2024 as limited by paragraph IV.

4 Effective Date. This act shall take effect January 1, 2023.