SB 85-FN-A - AS AMENDED BY THE SENATE

02/22/2023 0584s
03/16/2023 0838s

2023 SESSION

23-0996
07/04

SENATE BILL ***85-FN-A***

AN ACT relative to emergency behavioral health services and behavioral health crisis programs.

SPONSORS: Sen. Bradley, Dist 3; Sen. Avard, Dist 12; Sen. Whitley, Dist 15; Sen. Birdsell, Dist 19; Sen. Prentiss, Dist 5

COMMITTEE: Health and Human Services

ANALYSIS

This bill:

I. Defines behavioral health crisis programs within the mental health treatment laws.

II. Creates a commission to study behavioral health crisis programs.

III. Limits pre-authorization requirements for emergency behavioral health services.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to emergency behavioral health services and behavioral health crisis programs.

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

1 Declaration of Purpose. The general court hereby finds that:

I. In October 2020, the President signed the National Suicide Hotline Designation Act (Public Law No: 116-172), making the 988 line the universal telephone number for the national suicide and crisis lifeline system. The National Suicide Hotline Designation Act also expanded the scope of the Lifeline to include mental health and substance use related crises. The best practice guideline for creating a comprehensive system of care for behavioral health crisis services, as established by the Substance Abuse and Mental Health Services Administration (SAMHSA), includes three pillars: crisis call centers, mobile crisis response teams, and crisis receiving and stabilization programs. Implementation of 988 and associated call centers provide critical real-time coordination of crisis services and community support for those in a behavioral health crisis through phone, text and chat. Mobile crisis response teams offer community-based interventions, including triage, assessment, and de-escalation, to individuals in need wherever they are, and are more effective and more cost-effective than hospitalization. Crisis receiving and stabilization programs offer communities a no-wrong-door access to mental health and substance use care and can replace hospitalization in a high proportion of cases that may otherwise require it. These types of crisis stabilization programs have been shown to reduce the need for hospitalization, and therefore reduce costs associated with behavioral health crises. The 988 Lifeline was nationally implemented on July 16, 2022, as required by the National Suicide Hotline Designation Act of 2020, including in New Hampshire. New Hampshire seeks to continue to develop and maintain access to a system of care that is comprehensive, robust, integrated, effective, and just.

II. The general court finds that New Hampshire recognizes the imperative to fully support mental health treatment for Granite Staters by removing barriers to receiving prevention, intervention, treatment and recovery supports as needed. The New Hampshire 10-year Mental Health Plan and the passage in 2019 of SB 14 have laid the foundation for this level of support. Children and adults in psychiatric distress are boarding in our emergency rooms in record numbers for days or weeks. Rising rates of behavioral health symptoms and cost to communities have created an environment in NH making access to behavioral health care even more critical. The general court recognizes that appropriate rapid assessment, intervention, and in-home and community-based treatment may well avoid the need for presentation to the emergency room in the first place or

preclude the need for transfer from an emergency room to an inpatient psychiatric facility. This evidence-based, best practice intervention has also been demonstrated in national studies to be ultimately cost saving and achieve better outcomes for children, adults and families. This act continues the state's commitment to addressing the mental health needs of all Granite Staters by removing prior authorization requirements, and therefore, making health care treatment accessible without delay.

III. Therefore, it is in the best interest of all New Hampshire citizens to create a comprehensive, sustainable behavioral health crisis stabilization system by:

(a) Adopting and developing the 3 pillars of the national guideline for behavioral health crisis service model in a sustainable manner, which includes:

(1) A centralized, clinically staffed crisis call center that provides crisis intervention capabilities via telephone, online chat, and text message, available at all times;

(2) Mobile crisis response teams available to reach any person in the service area in their home, workplace, or any other community-based location of the individual in crisis in a timely manner; and

(3) Crisis stabilization programs that provide short-term observation and crisis stabilization services to all referrals in a home-like, non-hospital environment.

(b) Creating a study commission to identify and recommend means to establish sustainable financing for delivery of behavioral health crisis programs.

(c) Ensuring that behavioral health crisis programs are available without delay.

2 New Paragraph; New Hampshire Mental Health System; Definitions. Amend RSA 135-C:2 by inserting after paragraph II-b the following new paragraph:

II-c. "Behavioral health crisis programs" means the continuum of services to address crisis intervention, crisis stabilization, and crisis residential treatment needs of those with a mental health and/or substance use disorder crisis that are person-first, wellness, resiliency, and recovery oriented. These include, but are not limited to, crisis intervention, including counseling provided by centers participating in the National Suicide Prevention Lifeline network, mobile crisis response teams, and crisis receiving and stabilization services.

3 New Subdivision; Study Commission on Sustainable Funding of Behavioral Health Crisis Programs. Amend RSA 135-C by inserting after section 67 the following new subdivision:

Study Commission on Sustainable Funding of Behavioral Health Crisis Programs

135-C:68 Commission on Behavioral Health Crisis Services Established.

I. There is established a study commission on sustainable funding of behavioral health crisis programs. The commission shall be administratively attached to the department of health and human services.

(a) The study commission's duties shall include, but not be limited to:

(1) Studying the models used in other regions and states for sustainable financing for delivery of behavioral health crisis programs.

(2) Discussing the feasibility of implementing different models for sustainable financing for delivery of behavioral health crisis programs.

(3) Identifying and recommending means to establish sustainable financing for delivery of behavioral health crisis programs, both legislative and non-legislative.

(4) Creating a report on the available sustainable funding sources available for financing delivery of behavioral health crisis programs.

(b) Notwithstanding RSA 14:49, the members of the commission shall be as follows:

(1) Three members of the house of representatives, appointed by the speaker of the house of representatives.

(2) One member of the senate, appointed by the president of the senate.

(3) The commissioner of the department of health and human services, or designee.

(4) The director of the department of safety, division of emergency services and communications (E 911), or designee.

(5) The commissioner of the insurance department, or designee.

(6) One representative from the National Alliance on Mental Illness of New Hampshire, appointed by that organization.

(7) One representative of the New Hampshire Community Behavioral Health Association, appointed by the association.

(8) One representative of the New Hampshire Hospital Association, appointed by the association.

(9) One representative of New Futures, appointed by the organization.

(10) One representative of the University of New Hampshire Institute on Health Policy and Practice, appointed by that organization.

(11) One representative from each of New Hampshire's 2 centers participating in the National Suicide Prevention Lifeline network.

(12) One representative of America's Health Insurance Plans (AHIP), appointed by the association.

(13) One representative of community mental health centers appointed by the Bi-State Primary Care Association.

(c) Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

(d) The commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named senate member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Eight members of the commission shall constitute a quorum.

(e) The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2024. The chairperson of the study commission shall electronically file the final report with the clerk of the house of representatives or clerk of the senate, and the clerks of the respective bodies shall post the report on the general court website. The clerks of the respective bodies shall then send a copy of the report to the standing committee of each body with jurisdiction over the subject matter of the report.

4 Insurance; Coverage for Emergency Services; Definitions. Amend the introductory paragraph of RSA 417-F:1, I to read as follows:

I. "Emergency services" means health care services that are provided to an enrollee, insured, or subscriber in a licensed hospital emergency facility ***or as set out in RSA 417-F:5*** by a provider after the sudden onset of a medical ***or mental health*** condition ***or substance use disorder*** that manifests itself by symptoms of sufficient severity that a prudent layperson with average knowledge of health and medicine could reasonably expect that the absence of immediate medical ***or mental health*** attention could be expected to result in any of the following:

5 New Section; Coverage for Emergency Services; Emergency Mental Health Services. Amend RSA 417-F by inserting after section 4 the following new section:

417-F:5 Emergency Mental Health Services. Whenever mental health services are a covered benefit under a health benefit plan subject to this chapter, community based mental health crisis intervention services that otherwise meet the definition of emergency services as set out in RSA 417-F:1, I shall be treated as emergency services under this chapter without the requirement of being provided in a licensed hospital emergency facility if such services are provided under the program established in RSA 167:3-l, III.

6 Repeal. RSA 135-C:68, relative to the study commission on sustainable funding of behavioral health crisis programs, is repealed.

7 Effective Date.

I. Section 6 of this act shall take effect November 1, 2024.

II. The remainder of this act shall take effect upon its passage.

LBA
23-0996
Amended 4/20/23

SB 85-FN-A- FISCAL NOTE

AS AMENDED BY THE SENATE (AMENDMENTS #2023-0584s and #2023-0838s)

AN ACT relative to emergency behavioral health services and behavioral health crisis programs.

FISCAL IMPACT: [X] State [ ] County [ ] Local [ ] None

	Estimated Increase / (Decrease)			
STATE:	**FY 2023**	**FY 2024**	**FY 2025**	**FY 2026**
Appropriation	$0	$0	$0	$0
Revenue	$0	Indeterminable	Indeterminable	Indeterminable
Expenditures	$0	$0	$0	$0
Funding Source:	[X] General [ ] Education [ ] Highway [X] Other - Insurance Premium Tax revenue			

METHODOLOGY:

This bill amends RSA 417-F by: (1) revising the definition of emergency services to include emergency mental health or substance use disorder treatment; and (2) providing that community-based mental health crisis intervention services that otherwise meet the definition of emergency services will be covered by health insurers without the requirement that the services be provided at a hospital or emergency facility if the services are provided under the program established in RSA 167:3-l, III. The Insurance Department assumes the bill will result in increased claims for emergency mobile mental health services delivered to children under 21. The Department also assumes there may be a corresponding decrease in claims for emergency mental health services delivered at hospitals or freestanding emergency departments. In addition, the Department assumes there may be a reduction in the number of youths who are currently being boarded in emergency rooms at the state's acute care hospitals, and for which health carriers are currently required to pay a boarding fee. The Department states that the cumulative impact of these changes on health insurance premiums and premium tax revenues is indeterminable.

The Department of Health and Human Services states the bill will have no fiscal impact to that Department.

AGENCIES CONTACTED:

Department of Insurance and Health and Human Services