

Amendment to HB 400

1 Amend the title of the bill by replacing it with the following:

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3 AN ACT requiring the department of health and human services to develop a 10-year plan for
4 mental health services, relative to due process rights of persons subject to involuntary
5 emergency admissions, relative to the Philbrook center, and relative to reports of
6 abuse and neglect.
7

8 Amend the bill by replacing all after the enacting clause with the following:

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10 1 Purpose and Findings. The general court finds that it is vitally important that children in
11 the state of New Hampshire be protected from all forms of abuse and that reforms are necessary to
12 ensure the safety of each child. The general court also finds that the state of New Hampshire faces
13 a significant shortage in the state's capacity to provide our citizens with emergency mental health
14 assistance and long term treatment. Accordingly, the general court hereby directs the department
15 of health and human services to take the following steps in order to provide for the safety and
16 welfare of the citizens of this state.

17 2 Department of Health and Human Services; Development of a 10-year Plan for Mental
18 Health Services Required.

19 I. The department of health and human services, the bureau of behavioral health, and the
20 division of public health services, shall develop a comprehensive 10-year plan for the mental health
21 system. The 10-year strategy shall be founded on the principles of resiliency and recovery,
22 evidence-based practice, effectiveness, and efficiency. In developing the plan, the department shall
23 consult with provider organizations and associations, advocates, and policymakers. The department
24 shall also conduct a needs assessment which includes:

25 (a) An inventory of existing services, including inpatient and outpatient services,
26 housing supports, and peer and family supports; and

27 (b) A gap analysis to determine the need versus the current capacity of services. The
28 analysis shall take into account wait-times for services.

29 II. The plan shall:

30 (a) Focus on a population health approach, particularly regarding the integration of the
31 mental health system with other systems of care, including, but not limited to medical services,
32 substance use services, and social services.

33 (b) Provide specific recommendations and steps to eliminate or reduce to the greatest

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1 extent practicable the number of persons waiting in hospital emergency departments and the
2 resources necessary to implement those actions.

3 (c) Address a continuum of care, encompassing services and supports needed across the
4 lifespan including:

5 (1) Establishing performance metrics to determine effectiveness of services.

6 (2) Emergent models of care.

7 (3) Providing recommendations to policymakers on strategies to meet the goals of
8 the plan.

9 (d) Develop a timeline representing the appropriate phasing of priorities.

10 III. The commissioner of the department of health and human services shall submit the
11 plan to the speaker of the house of representatives, the president of the senate, and the governor on
12 or before July 1, 2018. The department shall provide interim reports to the oversight committee on
13 health and human services, established under RSA 126-A:13, on or before October 1, 2017 and on or
14 before March 1, 2018. Thereafter, the department shall report quarterly to the health and human
15 services oversight committee providing an update on the progress of the development and
16 implementation of the plan.

17 3 Plan Required for Statutory Due Process Rights of Certain Patients in Hospital Emergency
18 Rooms or Other Facilities. The commissioner of the department of health and human services shall
19 develop a plan with recommendations to ensure timely protection of the statutory and due process
20 rights of patients subject to the involuntary emergency admissions process of RSA 135-C who are
21 awaiting transfer to a designated receiving facility. The recommendations shall provide for judicial
22 review on a schedule consistent with the statutorily required schedule for persons who have been
23 admitted to a designated receiving facility. The commissioner shall consult with representatives of
24 the American Civil Liberties Union of New Hampshire, New Hampshire Hospital Association, the
25 New Hampshire Medical Society, the New Hampshire Psychiatric Society, the superior court
26 system, the New Hampshire Bar Association, the National Alliance on Mental Illness, and the
27 Disability Rights Center-NH. The plan shall be submitted to the oversight committee on health and
28 human services, established in RSA 126-A:13, for approval as soon as practicable. The
29 commissioner shall make a report relative to the plan which shall be submitted to the speaker of the
30 house of representatives, the president of the senate, and the governor on or before September 1,
31 2017.

32 4 Plan Required for Removal of Certain Persons From New Hampshire Hospital; Use of
33 Philbrook Center. The commissioner of the department of health and human services shall by
34 November 1, 2017 develop a plan to safely remove the remaining 24 youths from the New
35 Hampshire hospital and to ensure that they continue to receive the care they need. The
36 commissioner shall also examine the practicability of relocating the office of professional licensure
37 and certification, established in RSA 310-A, to another state building to allow the Philbrook center

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1 to be used to accept certain persons from the New Hampshire hospital. The commissioner shall
2 make a report relative to the plan and the relocation of the office of professional licensure and
3 certification which shall be submitted to the speaker of the house of representatives, the president
4 of the senate, the chairs of the house and senate committees having jurisdiction over health and
5 human services, and the governor on or before November 2, 2017.

6 5 Child Protection Act; Definitions; Founded Report. Amend RSA 169-C:3, XIII-a to read as
7 follows:

8 XIII-a. "Founded report" means a report made pursuant to this chapter for which the
9 department finds ~~[probable cause to believe]~~ **by a preponderance of the evidence** that the child
10 who is the subject of such report is abused or neglected.

11 6 New Paragraph; Child Protection Act; Definition of Unfounded but with Reasonable Concern.
12 Amend RSA 169-C:3 by inserting after paragraph XXVIII the following new paragraph:

13 XXIX. A report that is "unfounded but with reasonable concern" means a report made
14 pursuant to this chapter for which the department determines that there is probable cause to
15 believe the child was abused or neglected, but for which there is insufficient evidence to establish by
16 a preponderance of the evidence that the child was abused or neglected.

17 7 Child Protection Act; Duties of the Department of Health and Human Services;
18 Administrative Review and Letter of Concern; When Required. Amend RSA 169-C:34, II to read as
19 follows:

20 II. For each report it receives, the department shall promptly perform a child protective
21 investigation to:

22 ~~[(i)]~~ **(a)** Determine the composition of the family or household, including the
23 name, address, age, sex, and race of each child named in the report, and any siblings or other
24 children in the same household or in the care of the same adults, the parents or other persons
25 responsible for their welfare, and any other adults in the same household;

26 ~~[(ii)]~~ **(b) Determine whether any person in the same family or**
27 **household was named in a prior report of abuse or neglect, and, if there are 2 or more**
28 **prior unfounded or unfounded but with reasonable concern reports involving any family**
29 **or household member, conduct an administrative review of all identified reports;**

30 **(c)** Determine whether there is probable cause to believe that any child in the family or
31 household is abused or neglected, including a determination of harm or threatened harm to each
32 child, the nature and extent of present or prior injuries, abuse, or neglect, and any evidence thereof,
33 and a determination of the person or persons apparently responsible for the abuse or neglect;

34 ~~[(iii)]~~ **(d)** Determine the immediate and long-term risk to each child if the
35 child remains in the existing home environment; and

36 ~~[(iv)]~~ **(e)** Determine the protective treatment, and ameliorative services that
37 appear necessary to help prevent further child abuse or neglect and to improve the home

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environment and the parents' ability to adequately care for the children.

II-a. The department may issue a confidential letter of concern to a person or persons responsible for the safety and welfare of the child that although there is insufficient evidence to substantiate a finding of abuse or neglect or of unfounded but with reasonable concern, the department encourages the person or persons responsible for the safety and welfare of the child to seek family support services and provide contact information to obtain such services.

II-b. The department may make a confidential determination of unfounded but with reasonable concern.

8 Duties of the Department. Amend RSA 169-C:34, VII to read as follows:

VII. If the child's parents refuse to allow a social worker or state employee on their premises as part of the department's investigation, and the department has probable cause to believe that the child has been ~~[sexually molested, sexually exploited, intentionally physically injured so as to cause serious bodily injury, physically injured by other than accidental means so as to cause bodily injury, a victim of a crime, abandoned,]~~ **abused** or neglected, the department shall seek a court order to enter the premises. If the court finds probable cause to believe that the child has been abused or neglected ~~[in the manner described in this paragraph]~~, the court shall issue an order permitting a police officer, juvenile probation and parole officer, or child protection service worker to enter the premises in furtherance of the department's investigation and to assess the child's immediate safety and well-being. Any juvenile probation and parole officer or child protection service worker who serves or executes a motion to enter issued under this paragraph shall be accompanied by a police officer.

9 Records Management of Abuse and Neglect Reports. Amend RSA 169-C:35-a, III to read as follows:

III. The department shall retain a founded report **or unfounded but with reasonable concern report** for 7 years from the date that the department closes the case, after which time, the department shall delete or destroy all electronic and paper records of the report.

10 Report on Anticipated Cost of Expanded Services. The commissioner of the department of health and human services shall make a report detailing the anticipated cost of expanded services to be provided under RSA 169-C:34, II-a and II-b, which shall be submitted to the speaker of the house of representatives, the president of the senate, the chairpersons of the house and senate committees having jurisdiction over health and human services, and the governor on or before November 2, 2017.

11 Effective Date.

I. Section 3 of this act shall take effect July 1, 2017.

II. Section 4 of this act shall take effect July 2, 2017.

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

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AMENDED ANALYSIS

This bill:

I. Requires the department of health and human services to develop a comprehensive 10-year plan for the mental health system. The plan shall be submitted to the speaker of the house of representatives, the president of the senate, and the governor on or before July 1, 2018.

II. Requires the commissioner of the department of health and human services to develop a plan with recommendations to ensure statutory and due process rights of patients subject to involuntary emergency admissions who are in emergency rooms at hospitals or in other facilities.

III. Requires the commissioner of the department of health and human services to develop a plan to remove certain persons from New Hampshire hospital and to determine whether it is practical to relocate the office of professional licensure and certification.

IV. Requires a founded report of abuse and neglect to be based on a preponderance of the evidence, inserts a definition of "unfounded but with reasonable concern," and permits the department of health and human services to issue a confidential letter of concern encouraging the person to seek family support services.

V. Requires the commissioner to make a report relative to the anticipated cost of expanded services to be provided families under RSA 169-C:34.