

Rep. Byron, Hills. 20
Rep. Rosenwald, Hills. 30
April 23, 2018
2018-1705h
05/04

Amendment to SB 590-FN-A

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

2

3 AN ACT relative to the state loan repayment program, the developmental disabilities wait
4 list, involuntary admissions procedures, and the mental health system.
5

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

7

8 1 New Section; Department of Health and Human Services; Account Established. Amend RSA
9 126-A by inserting after section 74 the following new section:

10 126-A:75 Excess Appropriation Allocation Account. There is hereby established under the
11 department of health and human services an excess appropriation allocation account. For the
12 biennium ending June 30, 2019, immediately upon acceptance by the fiscal committee of any federal
13 funds attributable to the 38 percentage point enhanced federal match for the children's health
14 insurance program, the commissioner of administrative services shall transfer general funds of an
15 equal amount from account 05-95-47-470010-7948, Medicaid Care Management, into the excess
16 appropriation allocation account. Any funds remaining unspent in the excess appropriation
17 allocation account at the end of each fiscal year shall lapse to the state general fund.

18 2 Department of Health and Human Services; State Loan Repayment Program; Funding
19 Source. The department of health and human services is authorized to utilize up to \$410,000 in the
20 fiscal year ending June 30, 2019, for the purpose of providing additional funding to the state loan
21 repayment program. This amount shall be a charge against the department of health and human
22 services excess appropriation allocation account established in RSA 126-A:75. If new federal funds
23 become available to the program, the department is authorized to accept and expend such funds
24 without prior approval of the fiscal committee. Participants in the state loan repayment program
25 shall agree to work or practice in the state for a total of 3 years.

26 3 Department of Health and Human Services; Developmental Disabilities Wait List; Funding
27 Source. The department of health and human services is authorized to utilize up to \$5,400,000 in
28 the fiscal year ending June 30, 2019, for the purpose of funding the developmental disabilities wait
29 list. Of this amount, \$2,700,000 shall be a charge against the department of health and human
30 services excess appropriation allocation account established in RSA 126-A:75 and \$2,700,000 shall
31 be federal funds. Fiscal committee approval shall not be required for the acceptance and
32 expenditure of federal funds authorized under this section.

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1 4 New Paragraph; Mental Health Services System; Definitions. Amend RSA 135-C:2 by
2 inserting after paragraph XV the following new paragraph:

3 XV-a. "Transitional housing program services" means a residential program that provides
4 housing and support services to persons with serious and persistent mental illness through a
5 contract with the department of health and human services.

6 5 Involuntary Emergency Admissions; Examination. Amend RSA 135-C:28, I to read as follows:

7 I. The involuntary emergency admission of a person shall be to the state mental health
8 services system under the supervision of the commissioner. The admission may be ordered upon
9 the certificate of a physician or APRN, as defined in RSA 135-C:2, II-a, who is approved by either a
10 designated receiving facility or a community mental health program approved by the commissioner,
11 provided that within 3 days of the completion of the petition the physician or APRN has conducted,
12 or has caused to be conducted, a physical examination if indicated and circumstances permit, and a
13 mental examination. The physician or APRN must find that the person to be admitted meets the
14 criteria of RSA 135-C:27. The certificate shall state the time and, in detail, the nature of the
15 examinations conducted. The certificate shall also state a specific act or actions the physician or
16 APRN has actually observed or which have been reported to him or her by the petitioner or a
17 reliable witness who shall be identified in the certificate, and which in the physician's or APRN's **or**
18 **designee's** opinion satisfy the criteria set forth in RSA 135-C:27. The physician or APRN shall
19 ~~[identify in the certificate the facility in the state mental health services system to which the person~~
20 ~~shall be admitted]~~ **inform the person of the designated receiving facility in the mental**
21 **health services system that he or she will be transported to upon the facility location being**
22 **identified.** The admission shall be made to the facility which can best provide the degree of
23 security and treatment required by the person and shall be consistent with the placement principles
24 set forth in RSA 135-C:15. As used in RSA 135-C:27-33, "petitioner" means any individual,
25 including a physician or APRN completing a certificate, who has requested that a physician or
26 APRN conduct or who has conducted an examination for purposes of involuntary emergency
27 admission. Every certificate shall be accompanied by a written petition signed by a petitioner.

28 6 Nonemergency Involuntary Admissions; Conditions of Conditional Discharge. Amend RSA
29 135-C:50, III to read as follows:

30 III. During the term of conditional discharge, the person conditionally discharged shall be
31 provided with continuing treatment on an out-patient basis by a community mental health program
32 approved by the commissioner **or by transitional housing program services.**

33 7 Nonemergency Involuntary Admissions; Revocation of Conditional Discharge. Amend the
34 introductory paragraph of RSA 135-C:51, I to read as follows:

35 I. If a psychiatrist or APRN, as defined in RSA 135-C:2, II-a, at a community mental health
36 program **or transitional housing program services** providing continuing treatment on an
37 outpatient basis to a person conditionally discharged pursuant to RSA 135-C:50, reasonably believes

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1 that:

2 8 Nonemergency Involuntary Admissions; Revocation of Conditional Discharge. Amend RSA
3 135-C:51, III to read as follows:

4 III. If the psychiatrist or APRN, following the examination the psychiatrist or APRN
5 conducted or caused to be conducted of the person, finds that the person either has violated a
6 condition of the discharge or is in such a mental condition as a result of mental illness as to create a
7 potentially serious likelihood of danger to himself or herself or to others, he or she may temporarily
8 revoke the conditional discharge. If the conditional discharge is temporarily revoked, the
9 psychiatrist, or APRN, or designee, shall prepare, offer to and explain to the person a written
10 notice, if it can be done safely without significant possibility of bodily harm, giving the reasons for
11 the revocation and to ~~[identify the receiving facility to which the person is to be delivered]~~ **inform**
12 **the person of the designated receiving facility in the mental health services system that he**
13 **or she will be transported to upon the facility location being identified.** If this cannot be
14 done safely, a description of the circumstances indicating such risk shall be placed in the file.

15 9 Guardians and Conservators; General Powers and Duties of Guardian of the Person. Amend
16 RSA 464-A:25, I(a) to read as follows:

17 (a) To the extent that it is consistent with the terms of any order by a court of
18 competent jurisdiction relating to detention or commitment of the ward, the guardian shall be
19 entitled to custody of the ward and may establish the ward's place of abode within or without this
20 state. Admission to a state institution **or other designated receiving facility** shall be in
21 accordance with the following:

22 (1) A guardian may admit a ward to a state institution **or other designated**
23 **receiving facility** with prior approval of the probate court if, following notice and hearing, the
24 court finds beyond a reasonable doubt that the placement is in the ward's best interest and is the
25 least restrictive placement available. Authorization for such admission shall not be time limited
26 unless the court so orders. Authority to admit a ward to a state institution **or other designated**
27 **receiving facility** with prior approval under this subparagraph shall not be subject to the
28 limitations contained in RSA 464-A:25, I(a)(2) through (7).

29 (2) A guardian may admit a ward to a state institution **or other designated**
30 **receiving facility** without prior approval of the probate court upon written certification by a
31 physician licensed in the state of New Hampshire, or, in the case of placement in New Hampshire
32 hospital or other designated receiving facility, by a psychiatrist licensed in the state of New
33 Hampshire, or an advanced practice registered nurse, as defined in RSA 135-C:2, II-a, that the
34 placement is in the ward's best interest and is the least restrictive placement available. Within 36
35 hours, excluding days when the court is closed, of such an admission of a ward to a state institution
36 **or other designated receiving facility**, the guardian shall submit to the Merrimack county
37 probate court notice of the admission and the reasons therefor, together with a copy of the

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1 certificate by the physician, psychiatrist, or advanced practice registered nurse.

2 (3) The Merrimack county probate court shall review the guardian's notice within
3 48 hours of the filing of the notice, excluding days when the court is closed, to determine whether
4 the notice on its face appears to establish that the placement is in the ward's best interest and is the
5 least restrictive placement available. If the court concludes that the notice is insufficient, the court
6 shall order the immediate release of the ward from the state institution ***or other designated***
7 ***receiving facility***. If the court concludes that the notice is sufficient, counsel for the ward shall be
8 appointed no later than 48 hours following the court's review of the guardian's notice, excluding
9 days when the court is closed. Notice of the appointment shall be transmitted to the ward, to the
10 guardian, and to counsel. Counsel's notice shall be transmitted in writing and electronically or in
11 another manner which is likely to give actual notice of the appointment to counsel at the earliest
12 practicable time. For purposes of proceedings regarding admissions to state institutions ***or other***
13 ***designated receiving facilities*** without prior court approval, the ward shall have the right to
14 legal counsel in the same manner as provided in RSA 464-A:6. The court shall also provide the
15 ward a notice stating that the ward has the right to appointed counsel, the right to oppose the
16 admission by the guardian, and the right to a hearing and to present evidence at that hearing.

17 (4) Counsel for a ward admitted to a state institution ***or other designated***
18 ***receiving facility*** who has been appointed pursuant to subparagraph (3) shall deliver a written
19 report to the court within 5 days of his or her appointment which shall declare whether the ward
20 requests a hearing on the propriety of the admission. Unless the ward waives a hearing, counsel's
21 report shall include a request for a hearing on behalf of the ward. A copy of counsel's report shall
22 be sent to the ward and to the guardian. If the court does not receive a written report from counsel
23 within 5 days of counsel's appointment, the court shall order appropriate relief, including but not
24 limited to substitution of counsel, an order to show cause, or scheduling of a hearing on the
25 propriety of the admission without awaiting a report from counsel.

26 (5) Upon receipt of a request for a hearing, the court shall schedule a hearing on the
27 admission to a state institution ***or other designated receiving facility*** without prior approval of
28 the probate court, at which the guardian shall have the burden of proving, beyond a reasonable
29 doubt, that the placement is in the ward's best interest and is the least restrictive placement
30 available. The hearing shall be held within 10 days, excluding days when the court is closed, from
31 the date that the request is received.

32 (6) A guardian may not admit a ward to a state institution ***or other designated***
33 ***receiving facility*** for more than 60 days for any single admission or more than 90 days in any 12-
34 month period upon certification of a physician or psychiatrist, or an advanced practice registered
35 nurse, as defined in RSA 135-C:2, II-a, without filing a petition requesting approval of the probate
36 court.

37 (7) At any time, the ward or counsel for the ward may request a hearing on the

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admission to a state institution *or other designated receiving facility* without prior approval of the probate court, at which the guardian shall have the burden of proving, beyond a reasonable doubt, that the placement is in the ward's best interest and is the least restrictive placement available. The hearing shall be held within 15 days, excluding days when the court is closed, from the date that the hearing is requested.

10 New Section; Rescission of Involuntary Admission. Amend RSA 135-C by inserting after section 29 the following new section:

135-C:29-a Rescission of Involuntary Admission.

I. Following completion of an involuntary emergency admission certificate under RSA 135-C:28 and before custody of the person is accepted by a law enforcement officer pursuant to RSA 135-C:29, the certificate may be rescinded and the person who is the subject of the certificate released in any of the following circumstances:

(a) A mobile crisis team under contract with the department of health and human services accepts transfer of the person's care.

(b) An assertive community treatment team operated by a community mental health program accepts transfer of the person's care.

(c) A community-based provider accepts transfer of the person's care.

II. Following completion of an involuntary emergency admission certificate under RSA 135-C:28 and before custody of the person is accepted by a law enforcement officer pursuant to RSA 135-C:29, the certificate shall be rescinded and the person who is the subject of the certificate released if the physician or APRN who completed the certificate, or any other physician or APRN authorized to complete such certificates, finds that the person no longer meets the criteria of RSA 135-C:27.

III. No civil action shall be maintained against a person who rescinds an involuntary admission pursuant to paragraph I or II, provided that the person is acting in good faith within the limits of his or her authority.

11 Ten-Year Plan for Mental Health Services. Amend 2017, 112:2, III to read as follows:

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

12 Repeal; Department of Health and Human Services; Mobile Crisis Teams and Apartments. 2017, 156:188, relative to mobile crisis teams and apartments, is repealed.

13 Department of Health and Human Services; Behavioral Health Policy Options. For the fiscal year ending June 30, 2019, the department of health and human services is authorized to use

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1 up to \$3,421,696 of existing appropriations for one of the 2 purposes specified in paragraph I or II of
2 this section. Of this amount, \$2,360,848 shall be state general funds and \$1,060,848 shall be federal
3 funds. The department is authorized to choose from one of the following 2 options, based upon a
4 determination by the commissioner, as to which option will more readily address the state's
5 behavioral health needs:

6 I. Establish one behavioral health crisis treatment center in a geographic location that has
7 high rates of admissions to and discharges from New Hampshire hospital.

8 II. Establish one mobile crisis team and related apartments.

9 14 Designated Receiving Facilities; Residential Beds. The section heading and paragraph I of
10 2017, 156:186 are repealed and reenacted to read as follows:

11 156:186 Supported Housing; Residential Beds.

12 I. The commissioner of the department of health and human services shall contract with
13 programs that enable individuals with serious mental illness to attain and maintain integrated,
14 affordable, supported housing. The department shall use funding not to exceed \$500,000 from
15 existing appropriations for the biennium ending June 30, 2019. Eligibility for such funding shall
16 include persons who are not eligible for existing housing subsidy programs. The department shall
17 submit a monthly report to the fiscal committee of the general court regarding implementation of
18 this section.

19 15 Repeal. RSA 126-A:75, relative to the excess appropriation allocation account, is repealed.

20 16 Effective Date.

21 I. Section 15 of this act shall take effect July 1, 2019.

22 II. The remainder of this act shall take effect July 1, 2018.

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AMENDED ANALYSIS

This bill:

I. Establishes an excess appropriation allocation account in the department of health and human services for the biennium ending June 30, 2019, and authorizes the department to use a portion of the account for the state loan repayment program.

II. Designates funding for the developmental disabilities wait list from federal funds and the excess appropriation allocation account.

III. Clarifies admission to receiving facilities and other services for people who are involuntarily committed under RSA 135-C.

IV. Extends the reporting date for the 10-year plan for mental health services to October 15, 2018.

V. Directs the department of health and human services to increase behavioral health services by establishing either a behavioral health crisis treatment center or a mobile crisis team and related apartments.

VI. Directs the department of health and human services to use a portion of the agency's current appropriation to fund supported housing for individuals with serious mental illness.