

Floor Amendment to HB 1323-FN

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

2

3 AN ACT relative to parental alienation and relative to children's mental health services for
4 persons 18 years of age and younger.

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6 Amend the bill by replacing all after section 9 with the following:

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8 10 New Subdivision; System of Care for Children's Mental Health; New Hampshire Children's
9 Behavioral Health Association. Amend RSA 135-F by inserting after section 9 the following new
10 subdivision:

11 New Hampshire Children's Mental Health Association

12 135-F:10 Definitions. In this chapter:

13 I. "Assessable coverage" means:

14 (a) Health coverage as defined in RSA 420-G:2, IX;

15 (b) Stop loss coverage that conforms with RSA 415-H:3, or other group excess loss
16 insurance purchased against the risk that any particular claim, or total liability, will exceed a
17 specified dollar amount; or

18 (c) Group health plan, as defined by 42 U.S.C. section 300gg-91(a).

19 II. "Assessable entity" means any:

20 (a) Health maintenance organization, as defined by RSA 420-B:1, VI.

21 (b) Third party administrator, as defined by RSA 402-H:1, I.

22 (c) Entity providing administrator services and required to register with the insurance
23 commissioner under RSA 402-H:11-a or RSA 402-H:11-b.

24 (d) Insurance company licensed pursuant to RSA 401:1, IV.

25 (e) Health service corporation, as defined by RSA 420-A:1, III.

26 III. "Assessable lives" means all children under 19 years of age residing in the state who
27 have assessable coverage written or administered by an assessable entity, with the exception of
28 children whose childhood behavioral health services are paid for under Medicaid.

29 IV. "Assessment" means the assessable entity's liability with respect to the childhood
30 behavioral health services determined in accordance with this chapter. For purposes of rate setting
31 and medical loss ratio calculations, all association assessments are considered pharmaceutical or
32 medical benefit costs and not regulatory costs. In the event of any insolvency or similar proceeding

Floor Amendment to HB 1323-FN
- Page 2 -

1 affecting any payer, assessments shall be included in the highest priority of obligations to be paid by
2 or on behalf of such payer.

3 V. "Association" means the New Hampshire children's behavioral health association.

4 VI. "Board" means the board of directors of the New Hampshire children's behavioral health
5 association.

6 VII. "Care management entity" means an organizational entity that serves as a centralized
7 entity to coordinate all care for youth with complex behavioral health challenges who are involved in
8 multiple systems and their families, as defined in RSA 135-F:4.

9 VIII. "Childhood behavioral health services" mean any of the following services:

10 (a) Behavioral health intensive in-home services, which are therapeutic interventions
11 delivered to children and families in their homes and other community settings to improve child and
12 family functioning and prevent out-of-home placement. The components of intensive in-home
13 services include, but are not limited to individual and family therapy, skills training and behavioral
14 interventions, functional supports, and family support and training.

15 (b) Behavioral health intensive structured outpatient programs, which include short-
16 term, clinically intensive, structured day or evening service for a child with a behavioral health
17 disorder, and provides multidisciplinary treatment to address the subacute needs of children and
18 youth, while allowing them to continue to work or attend school and be part of family life.

19 (c) Intensive care coordination, including but not limited to evidence based approaches
20 like a high-fidelity wraparound for children and youth with significant behavioral health conditions,
21 which includes assessment and service planning, accessing and arranging for services, coordinating
22 multiple services, including access to crisis services. Assisting the child and family to meet basic
23 needs, advocating for the child and family, and monitoring progress are also included. The
24 wraparound "facilitator" is the intensive care coordinator who organizes, convenes, and coordinates
25 this process.

26 (d) Parent and youth peer support services provided by trained peer support specialists.

27 IX. "Commissioner" means the commissioner of the department of health and human
28 services.

29 X. "Estimated cost" means the estimated cost to the state over the course of a state fiscal
30 year to reimburse the care management entities for provision of the childhood behavioral health
31 services they provide to assessable lives.

32 XI. "Provider" means a person licensed or certified by this state, or otherwise qualified to
33 provide health care services to persons or a partnership or corporation made up of those persons.

34 XII. "Total non-federal program cost" means the estimated childhood behavioral health
35 services cost less the amount of federal revenue available to the state for the administration and
36 provision of childhood behavioral health services.

Floor Amendment to HB 1323-FN
- Page 3 -

1 135-F:11 New Hampshire Children's Behavioral Health Association Established. There is
2 hereby created a nonprofit corporation to be known as the New Hampshire children's behavioral
3 health association. The association is formed to assess assessable entities for the cost of childhood
4 behavioral health services provided to certain children in New Hampshire.

5 135-F:12 Membership, Powers, and Duties of the New Hampshire Children's Behavioral Health
6 Association.

7 I. The New Hampshire children's behavioral health association shall be comprised of all
8 assessable entities.

9 II. The New Hampshire children's behavioral health association shall be a not-for-profit,
10 voluntary corporation under RSA 292 and shall possess all general powers of a not-for-profit
11 corporation.

12 III. The board of directors shall include:

13 (a) Three representatives selected from the assessable entities currently writing,
14 maintaining, or administering assessable coverage through a voting process where votes are based
15 on assessable lives. The plan of operation shall provide details for this selection process.

16 (b) Two health care provider representatives appointed by the commissioner.

17 (c) The commissioner of the department of health and human services, who shall serve
18 as an ex officio member.

19 (d) The commissioner of the department of insurance who shall serve as an ex-officio
20 member.

21 (e) One member appointed by the governor and council who shall represent self-insured
22 entities.

23 (f) One public member appointed by the speaker of the house of representatives.

24 (g) One public member appointed by the president of the senate.

25 IV. The directors' terms and appointments shall be specified in the plan of operation adopted
26 by the New Hampshire children's behavioral health association.

27 V. The board of directors of the association shall:

28 (a) Prepare and adopt articles of association and bylaws.

29 (b) Prepare and adopt a plan of operation.

30 (c) Submit the plan of operation to the commissioner of insurance for approval after the
31 consultation with the commissioner.

32 (d) Conduct all activities in accordance with the approved plan of operation.

33 (e) On an annual basis, no later than November 1 of each year, establish the amount of
34 the assessment for the succeeding year.

35 (f) Enter into contracts as necessary or proper to collect and disburse the assessment.

36 (g) Enter into contracts as necessary or proper to administer the plan of operation.

Floor Amendment to HB 1323-FN

- Page 4 -

1 (h) Sue or be sued, including taking any legal action necessary or proper for the recovery
2 of any assessment for, on behalf of, or against members of the association or other participating
3 person.

4 (i) Appoint from among its directors, committees as necessary to provide technical
5 assistance in the operation of the association, including the hiring of independent consultants as
6 necessary.

7 (j) Determine an assessment amount and collect payments from assessed entities in
8 accordance with RSA 135-F:13.

9 (k) Submit an annual report to the commissioner of insurance, in a manner and form
10 determined by the commissioner, listing the association membership base, providing a count of
11 assessable lives by assessable entity, identifying changes in assessable lives by assessable entity,
12 describing the collection of assessments, listing payment delinquencies, and containing such other
13 related information as the commissioner may require.

14 (l) Allow each assessable entity up to 45 days after the closing of each calendar quarter
15 to report its assessable lives and remit its corresponding assessment amount as calculated pursuant
16 to RSA 135-F:13.

17 (m) Collect assessments from assessable entities as calculated under RSA 135-F:13 and
18 deposit said assessments less the association's administrative costs annually and reserves with the
19 state treasurer to the credit of the childhood behavioral health services fund established pursuant to
20 RSA 135-F:19. At the written request of the association following a majority vote of the board of
21 directors, any funds forwarded to the state treasurer for the childhood behavioral health services
22 fund remaining unexpended for childhood behavioral health services, shall promptly be returned to
23 the association.

24 (n) Be authorized to enter into one or more agreements with other applicable authorities
25 in surrounding states to reduce the risk of duplicate assessments and to assure provision of
26 childhood behavioral health services for children who are residents of this state but who receive
27 childhood behavioral health services in other states. Any costs relating to any such agreement shall
28 be considered additional childhood behavioral health services costs of the program for purposes of
29 determining the association's assessments.

30 (o) Adopt procedures by which affiliated assessable entities calculate their assessment
31 on an aggregate basis and procedures to ensure that no assessable life is counted more than once.
32 Unless otherwise determined by the board, the assessable entity responsible for the payment of the
33 provider's administrative costs for childhood behavioral health services shall be the entity
34 responsible for reporting assessable lives and payment of the corresponding assessment.

35 (p) Submit an annual report regarding the association's activities and its financial
36 reports adopted by the department of health and human services to the president of the senate, the
37 speaker of the house of representatives, and the governor.

Floor Amendment to HB 1323-FN
- Page 5 -

1 (q) Perform any other functions as may be necessary or proper to carry out the plan of
2 operation.

3 135-F:13 Assessment Determination.

4 I. The board shall determine an assessment for each assessable entity in accordance with
5 this section. An assessment determination made pursuant to this section is a medical benefit cost
6 and not a regulatory cost for purposes of calculating the carrier's medical loss ratio.

7 II. In determining the assessment amount, the board shall:

8 (a) Estimate the total non-federal program cost for the succeeding year;

9 (b) Add its anticipated operating costs for the succeeding year and such additional
10 working capital reserves as may be established by the board from time to time;

11 (c) Add a reserve of up to 10 percent of the anticipated cost under subparagraph (a) for
12 unanticipated costs associated with providing childhood behavioral health services to children
13 covered; and

14 (d) Subtract the amount of any unexpended assessments collected in the preceding year
15 along with any unexpended interest accrued to the fund during the preceding year.

16 III. The board shall include in its plan of operations, details regarding the timing for
17 assessment collections, and the form and format assessable entities shall use to calculate
18 assessments.

19 IV. The board shall include in its plan of operation details regarding payment due dates,
20 grace periods, late payment fees, interest, and other details regarding the collection of assessments.

21 V. The board may determine an interim assessment for new childhood behavioral health
22 services or unanticipated shortfalls in the association's ability to meet childhood behavioral health
23 services funding needs. The board shall calculate the interim assessment in accordance with
24 paragraph II, and the interim assessment is payable the calendar quarter that begins no less than
25 30 days following the establishment of the interim assessment. The board shall not impose more
26 than one interim assessment per year.

27 VI. In the event that the association discontinues operation for any reason, any unexpended
28 assessments, including unexpended funds from prior assessments in the state vaccine purchase
29 fund, shall be refunded to payees in proportion to the respective assessment payments by payees
30 over the most recent 8 quarters prior to discontinuation of association operations.

31 135-F:14 Powers and Duties. In addition to the duties and powers enumerated elsewhere in this
32 chapter:

33 I. The commissioner of insurance shall, after notice from the association, issue a show cause
34 order to any assessable entity that fails to comply with the association's plan of operation. In
35 addition to late fees and other penalties imposed by the association, assessable entities may, after a
36 finding of just cause, be subject to a minimum fine of \$5,000, a maximum fine of 25 percent of the
37 total amount of delinquent assessments, and licensure suspension.

Floor Amendment to HB 1323-FN
- Page 6 -

1 II. The insurance commissioner shall annually review the assessment report required under
2 RSA 135-F:12, V(k) to ensure that all assessable entities are participating in the association and
3 that all assessable entities have accurately reported assessable lives. The association shall remedy
4 any problem identified by the commissioner with respect to assessable entities and assessable lives.

5 III. The commissioner of insurance may adopt rules, pursuant to RSA 541-A, as necessary to
6 carry out the purposes of this subdivision.

7 135-F:15 Examinations and Annual Reports. The board of directors shall submit to the
8 commissioner, no later than 120 days after the close of the association's fiscal year, a financial report
9 in a form approved by the commissioner.

10 135-F:16 Exemption From Taxes. The association shall be exempt from payment of all fees and
11 all taxes levied by this state or any of its subdivisions, except taxes levied on real property.

12 135-F:17 Immunity from Liability. There shall be no liability on the part of and no cause of
13 action of any nature shall arise against any association member or its agents or employees, the
14 association or its agents or employees, members of the board of directors, or the commissioner or the
15 commissioner's representatives, for any action or omission by them in the performance of their
16 powers and duties under this chapter.

17 135-F:18 Severability of Chapter. If any provisions of this chapter or the application thereof to
18 any person or circumstance is held invalid, the invalidity does not affect other provisions or
19 applications of the chapter which can be given effect without the invalid provisions or applications,
20 and to this end the provisions of this chapter are severable.

21 135-F:19 Childhood Behavioral Health Services Fund. There is hereby established a childhood
22 behavioral health services fund for the payment to the care management entities for the provision of
23 childhood behavioral health services. Any funds provided to the department for this purpose and
24 deposited in the fund shall not be used for any other purpose. Moneys in the fund shall be
25 continually appropriated to the commissioner.

26 11 New Subparagraph; State Treasurer; Application of Receipts. Amended RSA 6:12, I(b) by
27 inserting after subparagraph (410) the following new subparagraph:

28 (411) Moneys deposited in the childhood behavioral health services fund established
29 in RSA 135-F:19.

30 12 Insurance; Coverage for Certain Biologically-Based Mental Illnesses. Amend RSA 417-E:1,
31 V-a to read as follows:

32 V-a. The commissioner shall periodically require health insurers, health service
33 corporations, and health maintenance organizations to submit the comparative analysis described in
34 42 U.S.C. section 300gg-26(a)(8)(A) for review to ensure compliance with this chapter and with the
35 Act. ***These comparative analyses shall also include specific comparative data for***
36 ***medical/surgical benefits and mental health and substance use disorder benefits available***
37 ***to consumers by age group including ages 0-5 years and 18 years and younger, and***

1 *including services available, coverage guidelines, denial rates, complaints about lack of*
2 *services, network capacity data, provider qualifications and restrictions for comparable*
3 *services, and other factors that indicate whether there are barriers to care that affect*
4 *parity.* To the extent allowable under state and federal law, such analysis shall be made public.

5 13 Effective Date.

6 I. Sections 1-9 of this act shall take effect January 1, 2027.

7 II. The remainder of this act shall take effect 60 days after its passage.

Floor Amendment to HB 1323-FN
- Page 8 -

2026-1981s

AMENDED ANALYSIS

This bill:

I. Defines parental alienation to mean a pattern of behavior, conduct, or speech which would damage the relationship of the child and a parent, resulting in the child's fear, negative perception, rejection, or hostility toward their other parent, and adds standards for considering claims of parental alienation in certain cases involving children and parental rights.

II. Establishes the New Hampshire children's behavioral health association for the purpose of collecting assessments to fund payments to care management entities for the provision of childhood behavioral health services. The association is authorized to collect assessments from insurance carriers, stop loss carriers, and third-party administrators for fully insured and self-funded health plans. The assessment base would include covered lives in the state employee health plan, as well as pooled risk management programs under RSA 5-b. The funds provided for this purpose would be deposited in a dedicated fund administered by the insurance commissioner.