

Bill as Introduced

HB 431 - AS INTRODUCED

2011 SESSION

11-0832

01/04

HOUSE BILL **431**

AN ACT relative to psychiatric evaluations.

SPONSORS: Rep. Bouchard, Merr 11

COMMITTEE: Judiciary .

ANALYSIS

This bill allows the court to determine if the psychiatric evaluation shall be available to the receiving facility in a nonemergency involuntary admission.

This bill is a request of the department of health and human services.

Explanation: Matter added to current law appears in **bold italics**.
 Matter removed from current law appears [~~in brackets and struck through.~~]
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 Eleven

AN ACT relative to psychiatric evaluations.

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

1 1 Mental Health Services System; Conduct of Hearing; Report. Amend RSA 135-C:43 to read as
2 follows:

3 135-C:43 Conduct of Hearing.

4 ***I.*** For hearings held under this chapter, the person sought to be admitted shall have the
5 right to legal counsel, to present evidence on his or her own behalf, to have a closed hearing and a
6 closed file unless he or she requests otherwise, and to cross-examine witnesses. He or she shall also
7 have the right to summon as a witness the psychiatrist who filed the report pursuant to RSA 135-
8 C:40 and to cross-examine him or her. A transcript, which may consist only of any audio recording of
9 the proceedings, and at the court's discretion, shall be made of the entire proceeding. The transcript
10 may serve as the basis for an appeal and the costs of the transcript shall be apportioned, within the
11 judge's discretion, between the state and the person sought to be admitted. The transcript or
12 recording shall be retained by the court for 2 years or until official notice is received of discharge, if
13 the person is admitted on an involuntary basis and subsequently discharged.

14 ***II.*** *If the court determines that involuntary admission to a receiving facility is*
15 *necessary, the court, at the nonemergency involuntary admission hearing, shall determine*
16 *if the psychiatric evaluation performed by the psychiatrist designated by the court shall be*
17 *available to the designated receiving facility, as defined in RSA 135-C:26, or the secure*
18 *psychiatric unit. Before the court determines whether to provide the psychiatric*
19 *evaluation to the designated receiving facility or to the secure psychiatric unit, the court*
20 *shall provide the person sought to be admitted with an opportunity to object. The court*
21 *shall consider the person's privacy interest in the content of the psychiatric evaluation and*
22 *the receiving facility's or the secure psychiatric unit's need to review the psychiatric*
23 *evaluation for purposes of treatment.*

24 2 Mental Health Services System; Order of Court; Psychiatric Evaluation. Amend RSA 135-
25 C:45, I to read as follows:

26 ***I.*** In hearings held under this chapter, after hearing all the evidence, the court may order
27 the respondent to be released, notwithstanding expert testimony, or it may order the person to
28 submit to some form of treatment other than inpatient treatment on an involuntary basis, which
29 may include treatment at a community mental health program approved by the commissioner. If the
30 examining psychiatrist recommends involuntary admission to a receiving facility as the most

1 desirable form of treatment, the court may so order. *The court shall furnish a copy of the*
2 *psychiatric evaluation, pursuant to RSA 135-C:43, II, performed by the psychiatrist*
3 *designated by the court to the designated receiving facility, as defined in RSA 135-C:26 or*
4 *the secure psychiatric unit.* If the court determines that involuntary admission to a receiving
5 facility is necessary, but the examining psychiatrist finds otherwise in his report under RSA 135-
6 C:40, the court may overrule the recommendation of the psychiatrist only after the court finds that
7 treatment other than involuntary admission to a receiving facility would not be in the best interests
8 of the person and the community.

9 3 Effective Date. This act shall take effect upon its passage.

Amendments

Rep. Bouchard, Merr. 11
February 23, 2011
2011-0478h
01/05

Amendment to HB 431

1 Amend RSA 135-C:45, I as inserted by section 2 of the bill by replacing it with the following:

2

3 I. In hearings held under this chapter, after hearing all the evidence, the court may order
4 the respondent to be released, notwithstanding expert testimony, or it may order the person to
5 submit to some form of treatment other than inpatient treatment on an involuntary basis, which
6 may include treatment at a community mental health program approved by the commissioner. If the
7 examining psychiatrist recommends involuntary admission to a receiving facility as the most
8 desirable form of treatment, the court may so order. *The court may furnish a copy of the*
9 *psychiatric evaluation, pursuant to RSA 135-C:43, II, performed by the psychiatrist*
10 *designated by the court to the designated receiving facility, as defined in RSA 135-C:26, or*
11 *the secure psychiatric unit.* If the court determines that involuntary admission to a receiving
12 facility is necessary, but the examining psychiatrist finds otherwise in his report under RSA 135-
13 C:40, the court may overrule the recommendation of the psychiatrist only after the court finds that
14 treatment other than involuntary admission to a receiving facility would not be in the best interests
15 of the person and the community.

Speakers

Hearing Minutes

HOUSE COMMITTEE ON JUDICIARY

PUBLIC HEARING ON HOUSE BILL 431

BILL TITLE: relative to psychiatric evaluations.

DATE: February 24, 2011

LOB ROOM: 208 Time Public Hearing Called to Order: 1:25 pm

Time Adjourned: 1:39 pm

(please circle if present)

Committee Members: Reps. Rowe, Song, Souza, Hagan, Silva, Andoline, Giuda, LaCasse,
McClarren, Murphy, Palmer, Peterson, Tregenza, Wheaton, Wal, Potter, Weber and Watrous.

Bill Sponsors: Rep. Bouchard, Merr 11

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

* Rep. Bouchard, Concord, Dist 11, sponsor

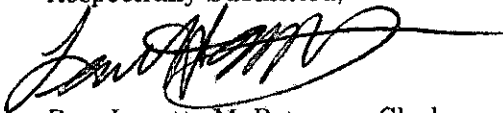
ntroduced the bill on behalf of the Department of Health and Human Services. (135-C: 43 files closed).

Presented proposed amendment, p 2, line 1 "shall" furnish to "may". This bill would allow files to be reviewed by doctors.

* Alexander de Nesnera, M.D., New Hampshire Hospital – supports

Allows treating facilities to obtain court appointed psychiatric evaluations as to whether commitment is necessary. File closed due to sensitivity of information. Only way to get information would be to get court order. Allow judge to make decision on commitment, and can not see evaluation due to being closed. Most start all over in the hospital. This bill allows files to be opened (sent) to the hospitals and person involved has the right to object. This is on non-emergency commitments.

Respectfully Submitted,



Rep. Lenette M. Peterson, Clerk

HOUSE COMMITTEE ON JUDICIARY
PUBLIC HEARING ON HOUSE BILL 431

BILL TITLE: relative to psychiatric evaluations.

DATE: February 24, 2011

LOB ROOM: 208

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Time Adjourned: 1:25
1:39

(please circle if present)

Committee Members: Reps. Rowe, Sorg, Souza, Hagan, Silva, Andolina, Giuda, LaCasse,
McClarren, Murphy, Palmer, Peterson, Tregenza, Wheaton, Wall, Potter, Weber and Watrous.

Bill Sponsors: Rep. Bouchard, Merr 11

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

* Rep. Bouchard - on behavie health + human. (135-C:43 files closed) Proposed amend. ps 2, line 1 shall furnish, to may. This bill would allow files to be reviewed by Drs.

Dr. de Vesnera, M.D - (S) allows treating facilities to obtain court appoint psych evals. as to whether commitment necessary. file closed due to sensitivity of info.. Only way to get info would be to get court order. Allows judge to make

Respectfully Submitted,



Rep. Lenette M. Peterson

decision on commitment, ~~individual can object~~ and
can't see eval. due to being closed. Must start all over in
hospital. This bill allows files to be opened (sent) to the
hospitals & person involved has the right to object.
This is on non-emergency commitments

Testimony

2/24/2011

HB 431

**Representative Candace Bouchard
Concord - Merrimack County District 11**

This legislation would allow treating facilities caring for patients admitted on a non-emergency involuntary admission to receive the psychiatric evaluation completed for the probate court pursuant to RSA 135-C: 40.

Per RSA 135-C: 43, the hearing and file is closed, which does not allow for receiving facilities to access this information promptly.

Two sessions ago, 135-C: 43 was amended per the probate court's request to have the probate file closed. An unintended consequence to this legislation was that transferring of these needed reports became more difficult.

There is no fiscal impact, however patients may end up being discharged sooner from the hospital due to the treatment team receiving important evaluations in a prompt manner, leading to timely decisions regarding a patient's care.

The individual will have an opportunity to object to the receiving facility or the SPU obtaining the psychiatric report without a hearing.

There are no known negatives to this proposed initiative.

The Court has been notified and are in favor of this initiative with the proposed amendment.



NEW
HAMPSHIRE
Hospital

36 CLINTON STREET, CONCORD, NEW HAMPSHIRE 03301-3861

(603) 271-5300 FAX (603) 271-5395

February 24, 2011

To: House of Representatives Judiciary Committee

From: Alexander de Nesnera, M.D.

Associate Medical Director, New Hampshire Hospital

Legislative Liaison and Past President, New Hampshire Psychiatric Society

Re: House Bill 431: An Act relative to psychiatric evaluations

Dear Chairman Rowe and Members of the Committee:

My name is Alexander de Nesnera. I am a psychiatrist, the Associate Medical Director at New Hampshire Hospital, and have been a member of the medical staff at New Hampshire Hospital (NHH) for 20 years, running an acute inpatient unit for 18 years. I am here on behalf of the Department of Health and Human Services as well as the New Hampshire Psychiatric Society, a district branch of the American Psychiatric Association. The New Hampshire Psychiatric Society has over 160 active physician members in New Hampshire.

The Department of Health and Human Services and the New Hampshire Psychiatric Society strongly support House Bill 431. This bill allows physicians treating a person committed on a non-emergency involuntary admission by a probate court to obtain a copy of the probate court-ordered psychiatric evaluation when the patient is brought to New Hampshire Hospital or the Secure Psychiatric Unit (SPU) for treatment.

New Hampshire Hospital or SPU physicians are unable to obtain this very important evaluation as the court staff is unable to release this document absent a court order, since New Hampshire Hospital or the SPU has not been involved in the probate commitment proceeding. Currently, a motion needs to be filed to obtain this assessment, and it may be weeks before physicians are able to obtain this assessment, which contains essential information about the individual's diagnosis and treatment.

Promptly obtaining this evaluation allows physicians at NHH and the SPU the ability to initiate treatment in a timely manner for patients suffering mental illness symptoms. This legislation allows a person's mental illness to be treated efficiently and promptly, leading to rapid stabilization and safe return to the community.

The Department of Health and Human Services and New Hampshire Psychiatric Society strongly urge that you approve passage of this important legislation. It will help our patients.

Thank you for allowing me to share these ideas with you today.

Alexander de Nesnera, M.D.

Associate Medical Director

New Hampshire Hospital

Associate Professor of Psychiatry

Dartmouth Medical School

Voting Sheets

HOUSE COMMITTEE ON JUDICIARY

EXECUTIVE SESSION on HB 431

BILL TITLE: relative to psychiatric evaluations.

DATE: February 24, 2011

LOB ROOM: 208

Amendments:

Sponsor: Rep. C. Bouchard

OLS Document #: 2011 0478h ma vv

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Motions:

OTP, ~~OTP/A~~, ~~ITL~~, Interim Study (Please circle one.)

Moved by Rep. Weber

Seconded by Rep. McClarren

Vote: 13-0 (Please attach record of roll call vote.)

Motions:

OTP, ~~OTP/A~~, ~~ITL~~, Interim Study (Please circle one.)

Moved by Rep. Weber

Seconded by Rep. Palmer

Vote: 13-0 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: YES NO

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent:

Refer to Committee Report

Respectfully submitted,


Rep. Lenette Peterson, Clerk

HOUSE COMMITTEE ON JUDICIARY

SUBCOMMITTEE WORK SESSION ON HB 431

BILL TITLE: relative to psychiatric evaluations.

DATE: {Type DATE}

Subcommittee Members:

Reps. Silva, Peterson, Giuda, LaCasse, McClarren, Wheaton, Souza,
Weber and Watrous
Ward, Hagen, Rowe, Potter
Palmer.

Comments and Recommendations:

Amendments:

Sponsor: Rep.	OLS Document #: 2011-0478h
Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:

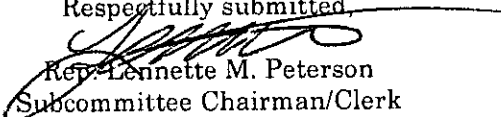
Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep. Weber
Seconded by Rep. McClarren
Vote: 13-0

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.
Seconded by Rep.
Vote:

Respectfully submitted,


Rep. Lennette M. Peterson
Subcommittee Chairman/Clerk

JUDICIARY

Bill #: HB 431 Title: _____

PH Date: ____/____/____ Exec Session Date: 2 / 24 / 11

Motion: OTP/A Amendment #: _____

MEMBER	YEAS	NAYS
Rowe, Robert H, Chairman	✓	
Sorg, Gregory M, V Chairman	—	—
Souza, Kathleen F	✓	
Hagan, Joseph M	✓	
Silva, Peter L	—	—
Andolina, Donald C	✓	
Giuda, J. Brandon	✓	
LaCasse, Paul D	✓	
McClarren, Donald B	✓	
Murphy, Brian JX	—	—
Palmer, Barry J	✓	
Peterson, Lenette M	✓	
Tregenza, Norman A	—	—
Wheaton, Gary W	—	—
Wall, Janet G	✓	
Potter, Frances D	✓	
Weber, Lucy M	✓	
Watrous, Rick H	✓	
	13-0	

Committee Report

CONSENT CALENDAR

February 28, 2011

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on JUDICIARY to which was referred

HB 431,

AN ACT relative to psychiatric evaluations. Having considered the same, report the same with the following amendment, and the recommendation that the bill OUGHT TO PASS WITH AMENDMENT.

Rep. Lucy M. Weber

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	JUDICIARY
Bill Number:	HB431
Title:	relative to psychiatric evaluations.
Date:	February 28, 2011
Consent Calendar:	YES
Recommendation:	OUGHT TO PASS WITH AMENDMENT

STATEMENT OF INTENT

Two sessions ago, RSA 135-C: 43, regarding non-emergency involuntary admissions to the state hospital or other facility, was amended to close the probate files in these cases to protect the privacy of the individuals involved. An unintended consequence of the change was that the probate court cannot now send a copy of the psychiatric evaluation which provides the basis for the committal to the treating institution. The evaluation contains useful information that could aid in the determination of the best course of treatment. The bill provides that the court can determine whether the evaluation should be provided to the treating facility, after the individual who is the subject of the proceeding has notice and an opportunity to be heard on the issue. The amendment changes the word "shall" to the word "may" to reflect that the court could determine that the file should not be forwarded to the treating institution

Vote 13-0.

Rep. Lucy M Weber
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

JUDICIARY

HB 431, relative to psychiatric evaluations. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Lucy M. Weber for JUDICIARY. Two sessions ago, RSA 135-C: 43, regarding non-emergency involuntary admissions to the state hospital or other facility, was amended to close the probate files in these cases to protect the privacy of the individuals involved. An unintended consequence of the change was that the probate court cannot now send a copy of the psychiatric evaluation which provides the basis for the committal to the treating institution. The evaluation contains useful information that could aid in the determination of the best course of treatment. The bill provides that the court can determine whether the evaluation should be provided to the treating facility, after the individual who is the subject of the proceeding has notice and an opportunity to be heard on the issue. The amendment changes the word "shall" to the word "may" to reflect that the court could determine that the file should not be forwarded to the treating institution **Vote 13-0.**

Original: House Clerk
Cc: Committee Bill File

HB 431 Ought to Pass with Amendment

Two sessions ago, RSA 135-C: 43, regarding non-emergency involuntary admissions to the state hospital or other facility, was amended to close the probate files in these cases to protect the privacy of the individuals involved. An unintended consequence of the change was that the probate court cannot now send a copy of the psychiatric evaluation which provides the basis for the committal to the treating institution. The evaluation contains useful information that could aid in the determination of the best course of treatment. The bill provides that the court can determine whether the evaluation should be provided to the treating facility, after the individual who is the subject of the proceeding has notice and an opportunity to be heard on the issue. The amendment changes the word "shall" to the word "may" to reflect that the court could determine that the file should not be forwarded to the treating institution.

Lucy M. Weber

A handwritten signature in black ink, appearing to be 'L. M. Weber', with a long horizontal stroke extending to the right.