

Bill as
Introduced

HB 475 - AS INTRODUCED

2013 SESSION

13-0786
01/05

HOUSE BILL

475

AN ACT

relative to the timing of the release of patients from New Hampshire hospital.

SPONSORS:

Rep. Sandblade, Hills 18; Rep. Lambert, Hills 44; Rep. C. McGuire, Merr 29;
Rep. Jones, Straf 24; Rep. J. Tilton, Merr 3; Sen. Reagan, Dist 17

COMMITTEE:

Health, Human Services and Elderly Affairs

ANALYSIS

This bill clarifies the timing of discharge from a receiving facility for emergency and nonemergency involuntary admissions.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to the timing of the release of patients from New Hampshire hospital.

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

1 1 Involuntary Emergency Admissions; Discharge. Amend RSA 135-C:33, I to read as follows:

2 I. At any time during the period of involuntary emergency admission the administrator of
3 the receiving facility or designee in such facility shall discharge the person admitted if the
4 administrator decides that the person no longer meets the criteria established by RSA 135-C:27. If a
5 discharge occurs, under this section or pursuant to a finding of no probable cause by the court, the
6 receiving facility shall, with the consent of the person admitted, return such person to the place
7 where the person resided at the time the petition and physician's certificate were completed and
8 signed. ***If the discharge is pursuant to a finding of no probable cause by the court, the***
9 ***receiving facility shall discharge the patient within one business day of the court's ruling.***
10 Unless the discharge is pursuant to a finding of no probable cause by the court, the receiving facility
11 shall give notice of the discharge to the community mental health program in the region from which
12 the person was admitted and to the community mental health program in the region to which the
13 person is being discharged. The person discharged or the person's guardian shall be given written
14 notice of such action taken by the receiving facility.

15 2 Nonemergency Involuntary Admissions; Conditions of Conditional Discharge. Amend
16 RSA 135-C:50, I to read as follows:

17 I. The administrator of a receiving facility may grant a conditional discharge under this
18 chapter to any person who consents, by an informed decision, to participate in continuing treatment
19 on an out-patient basis, who agrees to be subject to any rules adopted by the commissioner relative to
20 conditional discharge, and who understands the conditions of his *or her* discharge. ***If the***
21 ***discharge is pursuant to a finding of no probable cause by the court, the receiving facility***
22 ***shall discharge the patient within one business day of the court's ruling and, if required,***
23 ***the patient's agreement to the conditions imposed by the court.*** The administrator of the
24 facility or [his] designee shall prepare, deliver a copy of, and read to the person being conditionally
25 discharged a written statement of the conditions of conditional discharge and a warning that
26 violation of those conditions may result in revocation of the conditional discharge pursuant to
27 RSA 135-C:51.

28 3 Effective Date. This act shall take effect January 1, 2014.

Amendments



Amendment to HB 475

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

2

3 1 Nonemergency Involuntary Admissions; Conditions of Conditional Discharge. Amend
4 RSA 135-C:50, I to read as follows:

5 I. The administrator of a receiving facility may grant a conditional discharge under this
6 chapter to any person who consents, by an informed decision, to participate in continuing treatment
7 on an out-patient basis, who agrees to be subject to any rules adopted by the commissioner relative
8 to conditional discharge, and who understands the conditions of his *or her* discharge. *If the*
9 *discharge is ordered by the court, the receiving facility shall discharge the patient within*
10 *one business day of the court's ruling and, if required, the patient's agreement to the*
11 *conditions imposed by the court.* The administrator of the facility or [his] designee shall prepare,
12 deliver a copy of, and read to the person being conditionally discharged a written statement of the
13 conditions of conditional discharge and a warning that violation of those conditions may result in
14 revocation of the conditional discharge pursuant to RSA 135-C:51.

15 2 Effective Date. This act shall take effect January 1, 2014.

not adopted



2013-0422h

AMENDED ANALYSIS

This bill clarifies the timing of discharge from a receiving facility for nonemergency involuntary admissions.

Speakers

Hearing Minutes

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

PUBLIC HEARING ON HB 475

BILL TITLE: relative to the timing of the release of patients from New Hampshire hospital.

DATE: February 19, 2013

LOB ROOM: 205 **Time Public Hearing Called to Order:** 11:00 a.m.

Time Adjourned: 11:50 a.m.

(please circle if present)

Committee Members: Reps. J. MacKay, Harding, Donovan, French, J. Tilton, Sherman, Andrews, Ahern, Helmstetter, Tcehurst, Jane Hunt, DiMartino, McMahon, B. Nelson, S. Schmidt, Emerson, Meaney, Lebrun, Culbert, Martel and Kotowski.

Bill Sponsors: Rep. Sandblade, Hills 18; Rep. Lambert, Hills 44; Rep. C. McGuire, Merr 29; Rep. Jones, Straf 24; Rep. J. Tilton, Merr 3; Sen. Reagan, Dist 17

TESTIMONY

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

*Rep. Sandblade - Supports HB 475 and is the sponsor. There is an amendment to HB 475. <2013-0422h>

*Dr. Alexander de Nesnera from the NH State Hospital and is also here for the Department of Health and Human Services. He is also with the NH Psychiatric Society. He opposes HB 475. He has testimony and chart.

Respectfully Submitted:



Rep. Lisa DiMartino, Clerk

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

PUBLIC HEARING ON HB 475

BILL TITLE: relative to the timing of the release of patients from New Hampshire hospital.

DATE: 2/19/13

LOB ROOM: 205

Time Public Hearing Called to Order: 11:00 AM

Time Adjourned: 11:50

(please circle if present)

Committee Members: Reps. J. MacKay, Harding, Donovan, French, J. Tilton, Sherman, Andrews-Ahern, Helmstetter, Ticehurst, Jane Hunt, DiMartino, McMahon, B. Nelson, S. Schmidt, Emerson, Meaney, Lebrun, Culbert, Martel and Kotowski.

Bill Sponsors: Rep. Sandblade, Hills 18; Rep. Lambert, Hills 44; Rep. C. McGuire, Merr 29; Rep. Jones, Straf 24; Rep. J. Tilton, Merr 3; Sen. Reagan, Dist 17

TESTIMONY

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

* Rep Sandblade - supports HB 475 - and is ^{the} sponsor of HB 475 there is an Amendment to HB 475 - 2013-0422h

Dr
* Alexander de Kesnera from ^{also} the ^{NH} State Hospital & is here for the Dept of Health & Human Services. He is also with NH Psychiatric Society. He opposes HB 475 - Chart. He has Testimony

Testimony

Testimony on HB 475

Representative Emily Sandblade, Hillsborough 18

February 19, 2013

The bill came about because of a constituent that I'll call Bob to protect his privacy.

Last year Bob—who is normally a quiet and friendly young man—had a sudden onset of acute mental illness.

He was committed on an emergency basis to the New Hampshire Hospital. There he was diagnosed and treated for a chemical imbalance in his brain.

Within 10 days or so, Bob was back to his old self. If he had been in a private hospital, his insurance company would have required the hospital to release him as soon as he was healthy.

Not so at the New Hampshire Hospital. RSA 135-C provides for an involuntary admission hearing within 15 business days after admission. In Bob's case, counting a holiday and three weekends, this hearing occurred 22 days after admission.

Bob and his court-appointed attorney were able to demonstrate to the judge that he was not a danger to himself or others, and the court ruled six days later that Bob should be conditionally released. Bob agreed to the terms of the release the next day, 29 days after admission.

Bob was told by the staff that he'd be released the next day, 30 days after admission. The next day he was told there was nobody available to process the discharge paperwork, and that it would be two more days before he was released. 32 days after admission, he was again told that there was nobody to process the paperwork until after the weekend. Finally, 35 days after admission, 13 days after the court hearing, Bob was actually discharged.

Why did it take so long? The hospital staff told Bob it was because there had been personnel cutbacks in the clerical staff and nobody could get to the paperwork. In the meantime, Bob's hospitalization cost the state of New Hampshire a thousand bucks a day. So the taxpayers spent an extra five thousand dollars keeping Bob in the hospital.

And that's not the only cost. Bob, like many patients in the New Hampshire Hospital, is indigent. When he became ill, he was working at a minimum wage job. Bob informed his employer of his illness, and his employer told him that his job would stay open for 30 days.

Bob lost his job.

Bob lives in a rural area where finding a job—even one that pays minimum wage—is difficult. When Bob became ill, he had \$128 to his name. Losing his job was a terrible blow to Bob. Losing his job because somebody else couldn't do theirs adds insult to injury.

There are more costs: The New Hampshire Hospital is currently seeking additional funding to expand their facility to handle an increasing patient load. If there is that much demand, why does the hospital need to hold on to patients? Why not make those beds available to people who really need them? In my handout, I have included a recent article from the Portsmouth Herald about people waiting for a bed in the New Hampshire Hospital.

Any privately run hospital usually discharges patients within hours of a decision, even on weekends or holidays. This bill allows the New Hampshire hospital considerably more leeway—it requires that a patient be discharged within one business day after the judge signs the order and the patient agrees to the discharge terms.

While hospitals typically arrange discharges seven days a week, this bill recognizes that the New Hampshire Hospital must coordinate with Community Health Centers and other agencies to line up further treatment after discharge. That is why it specifies one business day rather than one calendar day.

Please do the right thing for people like Bob, for the people who really do need those hospital beds, and for the taxpayers of New Hampshire, and vote to pass this bill.

From the Portsmouth Herald:

By Jay Couture

February 07, 2013 2:00 AM

We live in an era where records, particularly when they are shattered or just barely missed, are in the news on a daily basis. We hear of high-scoring basketball stars, record-tying golfers and quarterbacks, and death-defying feats of athleticism. We hear which movies grossed the most ticket sales over the past weekend, which actors and actresses are making the most money, and who has won the most awards and gold statues. We are regularly apprised of the most recent political polls and the approval and disapproval ratings for the president, our governors, members of Congress and others in elected office. Everybody loves a winner, as the saying goes.

Here in New Hampshire, we broke another record this week, too, but this is one that won't make headlines and that most people won't hear about. It wasn't in the world of sports, entertainment or politics. It was in the world of treatment, or lack thereof, for people in acute psychiatric crisis. It is one that is nothing to celebrate, or be proud of.

On Monday, Feb. 4, there were 44 people stuck in hospital emergency departments throughout our state awaiting a bed at New Hampshire Hospital. These were 44 adults and children who have been deemed to meet the criteria for an involuntary emergency admission, which must be made to a designated receiving facility (DRF). These individuals are not safe to discharge as they have been determined, according to state statute, to be a danger to themselves or others. This situation generally means that an individual needs to be admitted to the state's one psychiatric inpatient facility — NHH — because there are only eight DRF beds remaining, at Elliot Hospital.

Despite the fact that NHH recently converted four visitation rooms to patient rooms to increase capacity by up to eight beds, our community-based mental health system of care has been eroded so much over the years that we simply cannot keep up. And because there were no DRF beds at Elliot, or elsewhere, on Feb. 4, there were 44 people languishing in hospital emergency rooms, not receiving the care they needed in a timely, humane or cost-effective way. In what other segment of health care would we, as a society, accept this? If you had a family member or friend with cardiac disease or kidney failure, would you be complacent when told, "Sorry, there is no care available," or that there is a lengthy waiting list before your loved one can even see a doctor?

It costs far more to get to the point where people in a psychiatric crisis require the acute services of an emergency department and an inpatient bed than it does to provide adequate funding for community-based mental health services. It goes without saying that services provided in a timely manner in the least restrictive environment have the double benefit of being more clinically effective and less costly.

The state's Ten-Year Mental Health Plan, "Addressing the Critical Mental Health Needs of NH's Citizens: A Strategy for Restoration," was released in 2008, but has not been adequately funded. It still provides a valid framework for our state, and there is still time to rebuild our community-based system of care by funding the plan now. We need to do better for the 44 adults and children who sat in hospital emergency rooms on Feb. 4 because the system had no room for them. We need to commit to moving the Ten-Year Plan forward this year.

Jay Couture, MHA, is executive director of Seacoast Mental Health Center in Portsmouth and president

File copy HB 475

New Hampshire Psychiatric Society

7 North State Street, Concord, NH 03301

Tel. 603/224-7083



February 19, 2013

To: House Health, Human Services and Elderly Affairs Committee

From: Alexander de Nesnera, M.D.

Legislative Liaison and Past President, New Hampshire Psychiatric Society

Re: House Bill 475: An Act relative to the timing of the release of patients from New Hampshire Hospital

Dear Chairman MacKay and Members of the Committee:

Thank you for giving me the opportunity to testify today. My name is Alexander de Nesnera. I am a psychiatrist, the Associate Medical Director at New Hampshire Hospital (NHH), and have been a member of the NHH medical staff for 23 years, running an acute inpatient unit team for 18 years. I am here today on behalf of the New Hampshire Department of Health and Human Services (Department) as well as the New Hampshire Psychiatric Society (NHPS), a district branch of the American Psychiatric Association. The New Hampshire Psychiatric Society has over 160 active physician members in New Hampshire.

The Department and the New Hampshire Psychiatric Society oppose HB 475. This bill would compel New Hampshire Hospital to discharge a patient initially admitted on an involuntary emergency admission within one business day if no probable cause for the involuntary admission is found by the district court. It is my clinical experience that, if no probable cause is found for the initial involuntary admission to NHH, that the patient is discharged within one business day. In fact, staff work very hard in ensuring that the patient is discharged before one business day.

There are instances, however, when no probable cause is found because the petitioner that initiated the petition for involuntary admission does not show up to the hearing. This leaves no alternative for the court other than finding no probable cause for the involuntary admission, since having no petitioner show up at the hearing means there is no petition to be heard. I have had to deal with the clinical consequences of this scenario. There have been times when a very psychotic, aggressive and belligerent patient has had no petitioner show up at the hearing, and consequently no probable cause has been found for the admission, despite there being clear evidence that the patient is a danger to himself or others as a result of mental illness. Under current law, I would be able to put in another petition for an involuntary emergency admission, keep the patient at NHH, and then testify at the district court at a future hearing to present information justifying the new petition, and why this patient needs continuing hospitalization to treat his mental illness symptoms.

House Bill 475 would not allow me the opportunity of petitioning the district court again. This new legislation would compel me to discharge a potentially dangerous, untreated mentally ill patient to the community. This does not serve the patient, or the community. It creates a potentially dangerous situation.

House Bill 475 also would compel New Hampshire Hospital to discharge a patient within one business day when a petition for a longer-term commitment (known in legal terminology as a nonemergency involuntary admission) is denied by the probate court. If the petition is denied, NHH staff work very effectively to get the patient discharged within (and many times before) one business day. If the petition for a longer-term commitment is denied, however, NHH cannot develop specific conditions for the patient to follow in the community, since there is no long-term commitment that has been approved by the probate court that would allow us to then develop these specific conditions. Current law allows us to develop specific conditions for a conditional discharge only if the petition for the non-emergency involuntary admission has been approved by the probate court.

House Bill 475 implies that a conditional discharge would occur when the probate court has denied the petition for a non-emergency involuntary admission, which really cannot occur since there is no approval from the court for such a longer-term commitment. Finally, it is not the probate court that imposes conditions for the release of the patient. The conditions of release are a three way agreement developed by the patient, New Hampshire Hospital, and the local community mental health center where the patient resides. This part of the legislation confuses the true nature of the commitment process we currently have, and does not make legal or clinical sense.

For these reasons, the Department and the New Hampshire Psychiatric Society strongly urge this committee to find House Bill 475 inexpedient to legislate.

I would be glad to entertain any questions you may have regarding my testimony.

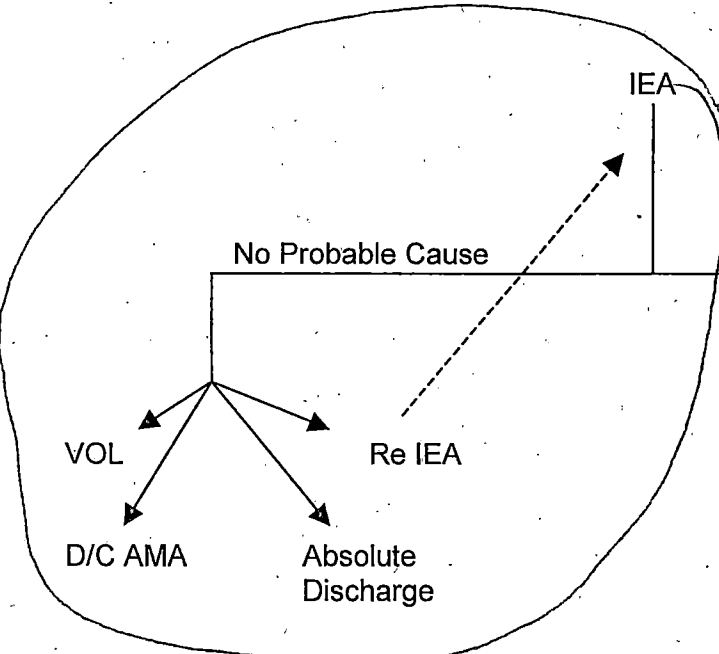


Alexander de Nesnera, M.D.
Associate Medical Director
New Hampshire Hospital
Associate Professor of Psychiatry
Dartmouth's Geisel School of Medicine
Legislative Liaison
New Hampshire Psychiatric Society

RCD
VOL/G
VOL
INV

Patients
Clients
Consumers
Wards

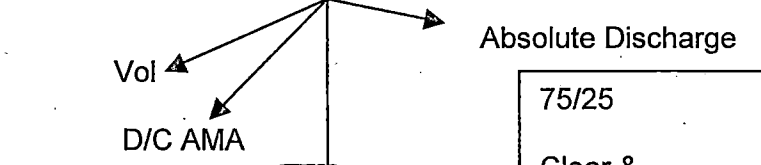
51/49
Preponderance of the Evidence



3 business days (excl. Sun + Holidays)

Probable Cause

10 days (excl. Sat + Sun)



75/25
Clear & Convincing

3 months - 5 years

PROBATE

(court appointed psychiatrist)

CONDITIONAL DISCHARGE (C.D)

95/5
Beyond a Reasonable Doubt

Guardianship

1

2

(if necessary)

Voting Sheets

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

EXECUTIVE SESSION on HB 475

BILL TITLE: relative to the timing of the release of patients from New Hampshire hospital.

DATE: February 21, 2013

LOB ROOM: 205

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

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

Moved by Rep. Stephen Schmidt

Seconded by Rep. Donald LeBrun

Vote: 17-1 (Please attach record of roll call vote.)

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

Moved by Rep.

Seconded by Rep.

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

CONSENT CALENDAR VOTE: 17-1

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

Statement of Intent: Refer to Committee Report

Respectfully submitted,
Lisa DiMartino
Rep. Lisa DiMartino, Clerk

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

EXECUTIVE SESSION on HB 475

BILL TITLE: relative to the timing of the release of patients from New Hampshire hospital.

DATE: 2/21/13

LOB ROOM: 205

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

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

Moved by Rep. Schmidt

Seconded by Rep. Librun

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

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

Moved by Rep.

Seconded by Rep.

Vote: 17-1 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: 17-1

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

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Jane E. Beaulieu, Clerk



STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

1/10/2013 8:47:26 AM
Roll Call Committee Registers
Report

2013 SESSION

HEALTH, HUMAN SERVICES & ELDERLY AFFAIRS

Bill #: HB475

Title: Relative to the timing of the release of patients from New Hampshire hospital.

PH Date: 02/19/2013

Exec Session Date: 02/21/2013

Motion: ITL

Amendment #: _____

MEMBER

YEAS

NAYS

MEMBER	YEAS	NAYS
Mackay, James R, Chairman	✓	
Harding, Laurie, V Chairman	✓	
French, Barbara C	✓	
Donovan, Thomas-E Mackay, Marcella	.	
Jilton, Joy K Bouchard	✓	
Andrews-Ahearn, E. Elaine	✓	
DiMartino, Lisa	✓	
Helmstetter, Barbara S	✓	
Hunt, Jane J, Clerk	✓	
Sherman, Thomas M	✓	
Ticehurst, Susan J	✓	
McMahon, Charles E	✓	
Emerson, Susan,	✓	
Kotowski, Frank R,	✓	
Martel, Andre-A out		
LeBrun, Donald L	✓	
Culbert, Patrick L	✓	
Meaney, Richard E	.	✓
Nelson, Bill G	✓	
Schmidt, Stephen J	✓	
TOTAL VOTE:	17	1

Committee Report

CONSENT CALENDAR

March 6, 2013

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on HEALTH, HUMAN SERVICES &
ELDERLY AFFAIRS to which was referred HB475,**

**AN ACT relative to the timing of the release of patients
from New Hampshire hospital. Having considered the
same, report the same with the following Resolution:**

RESOLVED, That it is INEXPEDIENT TO LEGISLATE.

Rep. Stephen J Schmidt

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	HEALTH, HUMAN SERVICES & ELDERLY AFFAIRS
Bill Number:	HB475
Title:	relative to the timing of the release of patients from New Hampshire hospital.
Date:	February 21, 2013
Consent Calendar:	YES
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

This bill was drafted to address an issue regarding the timely release of patients from New Hampshire Hospital. The committee found that the process of patient release was already tightly controlled. Patient rights are protected by strict medical as well as judicial protocols. The committee majority agreed that existing protocols would best protect patients, communities and the State of New Hampshire.

Vote 17-1.

Rep. Stephen J Schmidt
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

HEALTH, HUMAN SERVICES & ELDERLY AFFAIRS

HB475, relative to the timing of the release of patients from New Hampshire hospital.

INEXPEDIENT TO LEGISLATE.

Rep. Stephen J Schmidt for HEALTH, HUMAN SERVICES & ELDERLY AFFAIRS. This bill was drafted to address an issue regarding the timely release of patients from New Hampshire Hospital. The committee found that the process of patient release was already tightly controlled. Patient rights are protected by strict medical as well as judicial protocols. The committee majority agreed that existing protocols would best protect patients, communities and the State of New Hampshire. **Vote 17-1.**

HB 475 relative to the timing of the release of patients from New Hampshire hospital.

This bill was drafted to address an issue regarding the timely release of patients from New Hampshire Hospital. The committee found that the process of patient release was already tightly controlled. Patient rights are protected by strict medical as well as judicial protocols. The committee majority agreed that existing protocols would best protect patients, communities and the State of New Hampshire.

Rep. Stephen Schmidt
For the Committee
17-0 ITL CC

OK

JRM

Health, Human Resources and Elderly Affairs

HB 175 - An act relative to the timing of the release of patients from New Hampshire Hospitals

Rep. Steve Kinnick for Health, Human Resources and Elderly Affairs: This bill was drafted to address an issue regarding the timely release of patients from New Hampshire Hospitals. The committee found that the process of patient release was already tightly controlled. Patient rights are protected by strict medical as well as judicial protocols. The committee majority agreed that existing protocols would best protect patients, communities and the state of New Hampshire.

COMMITTEE REPORT

COMMITTEE: Health, Human Services and Elderly

BILL NUMBER: HB 475

TITLE: Relative to the timing of the release of patients from New Hampshire hospital.

DATE: 2/21/13 CONSENT CALENDAR: YES NO

OUGHT TO PASS

OUGHT TO PASS W/ AMENDMENT

INEXPEDIENT TO LEGISLATE

INTERIM STUDY (Available only 2nd year of biennium)

Amendment No.

STATEMENT OF INTENT:

See Attached Blurp

COMMITTEE VOTE: 17-0

RESPECTFULLY SUBMITTED,

- Copy to Committee Bill File
- Use Another Report for Minority Report

Rep. Stephen Schmidt
For the Committee (SS)