

Committee Report

CONSENT CALENDAR

May 9, 2019

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on Health, Human Services and Elderly
Affairs to which was referred SB 177,**

**AN ACT relative to the use of physical restraints on
persons who are involuntarily committed. Having
considered the same, report the same with the following
amendment, and the recommendation that the bill
OUGHT TO PASS WITH AMENDMENT.**

Rep. William Marsh

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Health, Human Services and Elderly Affairs
Bill Number:	SB 177
Title:	relative to the use of physical restraints on persons who are involuntarily committed.
Date:	May 9, 2019
Consent Calendar:	CONSENT
Recommendation:	OUGHT TO PASS WITH AMENDMENT 2019-1656 h

STATEMENT OF INTENT

This bill, as amended, allows the transport of individuals to New Hampshire Hospital without the use of physical restraints, when appropriate. The health care provider makes the initial determination as to the appropriate method of transport, whether by ambulance or by law enforcement. The transporting agency then determines if physical restraints are necessary to protect the safety of the person being transported, the personnel conducting the transport, or the safety of the public or property. The committee believes this language appropriately awards the initial decision to the health care provider ordering the emergency involuntary admission, but allow the persons transporting the patient the decision to use restraints if necessary for safety. The language of the amendment also ensures that changes to this statute will not be necessary if changes are made to the list of providers who may make the certification.

Vote 21-0.

Rep. William Marsh
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Health, Human Services and Elderly Affairs

SB 177, relative to the use of physical restraints on persons who are involuntarily committed.
OUGHT TO PASS WITH AMENDMENT.

Rep. William Marsh for Health, Human Services and Elderly Affairs. This bill, as amended, allows the transport of individuals to New Hampshire Hospital without the use of physical restraints, when appropriate. The health care provider makes the initial determination as to the appropriate method of transport, whether by ambulance or by law enforcement. The transporting agency then determines if physical restraints are necessary to protect the safety of the person being transported, the personnel conducting the transport, or the safety of the public or property. The committee believes this language appropriately awards the initial decision to the health care provider ordering the emergency involuntary admission, but allow the persons transporting the patient the decision to use restraints if necessary for safety. The language of the amendment also ensures that changes to this statute will not be necessary if changes are made to the list of providers who may make the certification. **Vote 21-0.**

Original: House Clerk

Cc: Committee Bill File

COMMITTEE REPORT

COMMITTEE: HHS & EA

BILL NUMBER: SB 177

TITLE: Relative to Physical Restraints

DATE: _____ 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.
16564

STATEMENT OF INTENT:

SB 178 enables the transport of individuals to NH Hospital without the use of physical restraints if all involved deem that appropriate. The amendment allows any health care provider who signs an involuntary emergency admission certificate to make this determination — which would include physician assistants if SB 225 becomes law. It also corrects a drafting error. The committee recommends OTP/A.

COMMITTEE VOTE: 21-0

RESPECTFULLY SUBMITTED,

Rep. [Signature] MADISY
For the Committee

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

SB 177:

SB 177, as amended, allows the transport of individuals to the New Hampshire Hospitals without the use of physical restraints when appropriate. The health care provider makes the initial determination as to the appropriate method of transport, whether by ambulance or by law enforcement. The transporting agency then determines if physical restraints are necessary to protect the safety of the person being transported, the personnel conducting the transport, or the safety of the public or property. The committee believes this language appropriately awards the initial decision to the health care provider ordering the emergency involuntary admission, but allow the persons transporting the patient the decision to use restraints if necessary for safety. The language of the amendment also ensures that changes to this statute will not be necessary if changes are made to the list of providers who may make the certification.

Amendment to SB 177

1 Amend RSA 135-C:29, II and III as inserted by section 1 of the bill by replacing them with the
2 following:

3

4 II. The health care provider who is authorized to order involuntary emergency admission
5 under RSA 135-C:28, I shall determine which transport option should be used to transport the
6 person to New Hampshire hospital or the designated receiving facility. The transport options shall
7 be by ambulance or by law enforcement. The transporting agency shall deliver the person to the
8 designated receiving facility or New Hampshire hospital and shall determine whether restraint is
9 necessary to protect the safety of the person, personnel conducting the transport, property, or the
10 public. In the case of ambulance transport, such determination shall be in writing and shall state
11 the factual basis for the conclusion that physical restraints are necessary. Physical restraints shall
12 be used only to transport a person being admitted to New Hampshire hospital or a designated
13 receiving facility, if necessary, to protect the safety of the person, personnel conducting the
14 transport, property, or the public. For the purpose of this paragraph, "physical restraints" means
15 the use of mechanical devices or other means to restrict the movement of a person or the movement
16 or normal function of a portion of his or her body.

17 III. When the person being admitted to New Hampshire hospital or a designated receiving
18 facility is a child under age 18, the health care provider shall consult with the parent, guardian, or
19 legal custodian of the child prior to making the determination required under paragraph II.

Voting Sheets

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

EXECUTIVE SESSION on SB 177

BILL TITLE: relative to the use of physical restraints on persons who are involuntarily committed.

DATE: 5-7-19

LOB ROOM: 205

MOTION: (Please check one box)

- OTP
- ITL
- Retain (1st year)
- Adoption of Amendment # 1656 h
(if offered)
- Interim Study (2nd year)

Moved by Rep. Marsh Seconded by Rep. Mackay Vote: 21-0

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____
(if offered)
- Interim Study (2nd year)

Moved by Rep. Marsh Seconded by Rep. Mackay Vote: 21-0

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____
(if offered)
- Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____
(if offered)
- Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

CONSENT CALENDAR: YES NO

Minority Report? Yes No If yes, author, Rep: _____ Motion _____

Respectfully submitted: Susan Ticehurst
Rep Susan Ticehurst, Clerk



STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

2/7/2019 12:10:51 PM
Roll Call Committee Registers
Report

2019 SESSION

Health, Human Services and Elderly Affairs

Bill #: SB 177 Motion: Adopt Amend AM #: 1656 h Exec Session Date: 5-17-19

Members	YEAS	Nays	NV
Weber, Lucy M. Chairman	✓		
Campion, Polly Kent Vice Chairman	✓		
MacKay, James R.	✓		
Snow, Kendall A.	✓		
Freitas, Mary C.	✓		
Ticehurst, Susan J. Clerk	✓		
Knirk, Jerry L.	✓		
Salloway, Jeffrey C.	✓		
Cannon, Gerri D.	✓		
Nutter-Upham, Frances E.	✓		
Osborne, Richard G.	✓		
Schapiro, Joe	✓		
Woods, Gary L.	✓		
McMahon, Charles E.	✓		
Nelson, Bill G.	✓		
Guthrie, Joseph A.	✓		
Fothergill, John J.			
Marsh, William M.	✓		
Pearson, Mark A.	✓		
Acton, Dennis F.	✓		
DeClercq, Edward	✓		
Stapleton, Walter A.	✓		
TOTAL VOTE:	21	0	



STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

2/7/2019 12:10:51 PM
Roll Call Committee Registers
Report

2019 SESSION

Health, Human Services and Elderly Affairs

Bill #: SB 117 Motion: OTPA AM #: 1656h Exec Session Date: 5-17-19

Members	YEAS	Nays	NV
Weber, Lucy M. Chairman	✓		
Campion, Polly Kent Vice Chairman	✓		
Mackay, James R.	✓		
Snow, Kendall A.	✓		
Freitas, Mary C.	✓		
Ticehurst, Susan J. Clerk	✓		
Knirk, Jerry L.	✓		
Salloway, Jeffrey C.	✓		
Cannon, Gerri D.	✓		
Nutter-Upham, Frances E.	✓		
Osborne, Richard G.	✓		
Schapiro, Joe	✓		
Woods, Gary L.	✓		
McMahon, Charles E.	✓		
Nelson, Bill G.	✓		
Guthrie, Joseph A.	✓		
Fothergill, John J.			
Marsh, William M.	✓		
Pearson, Mark A.	✓		
Acton, Dennis F.	✓		
DeClercq, Edward	✓		
Stapleton, Walter A.	✓		
TOTAL VOTE:	21	0	

Rep. Marsh, Carr. 8
April 24, 2019
2019-1656h
01/10

Amendment to SB 177

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2 following:

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4 II. The health care provider who is authorized to order involuntary emergency admission
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6 person to New Hampshire hospital or the designated receiving facility. The transport options shall
7 be by ambulance or by law enforcement. The transporting agency shall deliver the person to the
8 designated receiving facility or New Hampshire hospital and shall determine whether restraint is
9 necessary to protect the safety of the person, personnel conducting the transport, property, or the
10 public. In the case of ambulance transport, such determination shall be in writing and shall state
11 the factual basis for the conclusion that physical restraints are necessary. Physical restraints shall
12 be used only to transport a person being admitted to New Hampshire hospital or a designated
13 receiving facility, if necessary, to protect the safety of the person, personnel conducting the
14 transport, property, or the public. For the purpose of this paragraph, "physical restraints" means
15 the use of mechanical devices or other means to restrict the movement of a person or the movement
16 or normal function of a portion of his or her body.

17 III. When the person being admitted to New Hampshire hospital or a designated receiving
18 facility is a child under age 18, the health care provider shall consult with the parent, guardian, or
19 legal custodian of the child prior to making the determination required under paragraph II.

Sub-
Committee
Actions

SUBCOMMITTEE WORK SESSION on SB 177

BILL TITLE: relative to the use of physical restraints on persons who are involuntarily committed.

DATE: 4-25-19

Subcommittee Members: Reps. MacKay, Snow, Ticehurst, Cannon, Nutter-Upham, Schapiro, Guthrie, Fothergill, Marsh and Acton
Absent

Comments and Recommendations:

MOTIONS: *Adopt Amend*
OTP, OTP/A, ITL, Retained (1st Yr), Interim Study (2nd Yr)
(Please circle one)

Moved by Rep. Marsh Seconded by Rep. Nutter-Upham AM Vote: 9-0
Adoption of Amendment # 1656h

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

Amendment Adopted Amendment Failed

MOTIONS: OTP, OTP/A, ITL, Retained (1st Yr), Interim Study (2nd Yr)
(Please circle one)

Moved by Rep. Marsh Seconded by Rep. Schapiro AM Vote: _____
Adoption of Amendment # _____

Moved by Rep. _____ Seconded by Rep. _____ Vote: 9-0

Amendment Adopted Amendment Failed

Respectfully submitted,

Rep. Susan Ticehurst
Subcommittee Chairman/Clerk

Rep. Marsh, Carr. 8
April 24, 2019
2019-1656h
01/10

Amendment to SB 177

1 Amend RSA 135-C:29, II and III as inserted by section 1 of the bill by replacing them with the
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9 necessary to protect the safety of the person, personnel conducting the transport, property, or the
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13 receiving facility, if necessary, to protect the safety of the person, personnel conducting the
14 transport, property, or the public. For the purpose of this paragraph, "physical restraints" means
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16 or normal function of a portion of his or her body.

17 III. When the person being admitted to New Hampshire hospital or a designated receiving
18 facility is a child under age 18, the health care provider shall consult with the parent, guardian, or
19 legal custodian of the child prior to making the determination required under paragraph II.

Hearing Minutes

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

PUBLIC HEARING ON SB 177

BILL TITLE: relative to the use of physical restraints on persons who are involuntarily committed.

DATE: April 24, 2019

LOB ROOM: 205 **Time Public Hearing Called to Order:** 2:23 PM
Time Adjourned: 3:35 PM

Committee Members: Reps. Weber, Campion, Ticehurst, MacKay, Snow, Freitas, Knirk, Salloway, Nutter-Upham, R. Osborne, Schapiro, Woods, McMahon, Nelson, Guthrie, Fothergill, Marsh, M. Pearson, Acton and Stapleton

Bill Sponsors:

Sen. Sherman	Sen. Fuller Clark	Sen. Hennessey
Sen. Rosenwald	Sen. Watters	Rep. MacKay
Rep. Guthrie	Rep. Knirk	Rep. Cushing
Rep. Almy		

TESTIMONY

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

Introduced By: Sen. Sherman, Sponsor –

Supports the bill. This has been a long-standing issue in NH and there has been a committee to study use of constraints. Intent of the bill is to stop this routine practice. There are going to be instances when secure transport is appropriate. The committee recommendations aimed for a complete transformation. This bill, as amended, puts data gathering into statute. Goal was to make it meaningful but not onerous. Currently law enforcement is called to make the transfer. Sometimes it is not appropriate or necessary and may be detrimental to the patient. The clinical provider at the hospital may decide what mode of transport is appropriate. Custody is transferred with the patient so that law enforcement can make the decision about what is the safest way to transport. On the EMS side, a similar standard occurs. The decision in the hospital is which mode of transportation. Once the custody is transferred, that entity is responsible for deciding on how. The EMS side documents the decision. For law enforcement it is not a requirement because it is a clinical decision and because it becomes part of the public record. The data gathering is simple.

Question - Rep. Pearson: What about transporting from a clinic, rather than a hospital?

Answer - The patient must have had an Involuntary Emergency Admission (IEA). It was designed for hospital settings. Would like it to be applied everywhere the decision is made.

Question - Rep. Snow: Current statute is that children can be transported by ambulance however the family must pay for it. Does this bill address this?

Answer - It would be billed like any other transport.

Question - Rep. Shapiro: Referring to page 1, line 4, law enforcement shall take custody. Is that the case whether they go by ambulance or with law enforcement?

Answer - The default is law enforcement but paragraph two has an exception.

Question - Rep. Nelson: Should it say shall consult or must consult?

Answer - This wording is already in statute.

Question - Rep. Woods: Regarding not being able to get a hold of a parent, if there is an emergency situation, two physicians can sign.

Answer - Not in this situation. This is not an emergency situation.

Question - Rep. Pearson: Regarding line 9: how about a physician assistant?

Answer - I think there is an amendment coming.

Question - Rep. Marsh: In case of inability to contact a person, could a child be transported by law

enforcement?

Answer - Deferred. Sherman would also like to amend lines 12-14 which don't match line 18 because it doesn't have the word property.

Question - Rep. Woods: Page 1, line 20, regarding physical restraint devices seems broad.

Answer - This is in statute now. Typically, that would mean chemical restraint.

*** 1 Patrick Dowling, Cheryl Dowling -**

Spoke of his experience with the mental health system in two states. Felt compassion during treatment in Massachusetts, but like a criminal in New Hampshire. Rep. Pearson: Do you know of people with a similar disorder who suddenly and without warning act in a violent way. Dowling: Yes. Attachment #1: Written testimony.

*** 2 Dellie Champane -**

Supports the bill; mother of a child with a chronic illness. Spoke of her son's transport to the hospital in handcuffs.

Rep. Shapiro: One aspect of the bill calls for consulting with a parent. In some cases, it could be safest to transport in restraints. As a parent, do you think you could have been helpful in making that assessment?

Answer - Yes. Attachment #2: Written testimony.

*** 3 Barbara Brunelle -**

Supports the bill. Spoke about a family member with a mental illness who had additional trauma by being in restraints. Attachment #3: Written testimony.

*** 4 Norma MacKonley Smith -**

Spoke on behalf of Ellen Travino. Attachment #4: Written testimony of Ellen Travino.

Alexander de Nesnera, Department of Health and Human Services/New Hampshire Hospital -

Thanked the previous speakers. Sees patients arriving in handcuffs. In some cases, this is necessary and in other cases it is not. Hoping to minimize the transporting of patients in restraints.

Question - Rep. Acton: Why would law enforcement be used since these are always medical situations?

Answer - This bill is an improvement because it puts the decision about how a patient can be safely transported into the hands of a medical person.

Question - Rep. Nelson: What do other states do?

Answer - The issue from NH's perspective is that NH Hospital accepts patients directly from emergency rooms. Other states have an intermediate step, where patients go to a psychiatric unit where they have been admitted to a medical facility so the mode of transport is by ambulance. It depends on the systems that are in place in each state.

Question - Rep. Shapiro: Is the collaboration of a parent and the emergency room staff an effective way to make a decision about a patient's safety on the way to the hospital?

Answer - We go on past behavior, what symptoms are...when we make a decision it will be with the input of family and the staff who were caring for the patient in the emergency room. Hopefully while waiting they will have been given treatment that will alleviate their symptoms. That said, we simply don't know how the patient will react but this is a good rational way to make a decision.

Question - Rep. Pearson: How would the situation where a person is behaving erratically but not in a hospital setting be handled?

Answer - In New Hampshire we have crisis intervention teams where specialized officers who are trained would make every effort to have that individual be brought to an emergency room for assessment. The emergency room personnel would make the assessment about what action should be taken. Unfortunately, people in crisis may become agitated and assault a police officer and then be taken to a jail. There is also a way for them to go voluntarily to the NH Hospital.

Question - Rep. Stapleton: Are sedations useful in preparing the patient for transport?

Answer - There is a controversy about chemical restraints vs. mechanical restraints. He believes they should be offered the medication. When a person is transported it is not the common practice of involuntarily sedating them. Common practice is to offer medication to help alleviate the

symptoms. When their symptoms abate, they may not even need to be sedated or admitted to NH Hampshire Hospital.

Chief Bradley Osgood, Chief of Police in Concord –
Supports the bill as amended. Looking forward to the data.

*** 5 Sue Ellen Griffin, West Central Behavior Health –**
Supports the bill. Past president of NH Community Behavioral Health Association. This bill satisfied law enforcement but also takes a step toward decriminalizing mental illness. Attachment #5: Written testimony.

*** 6 Scott McGuffin, National Association on Mental Illness –**
Questions what kind of training in de-escalation while dealing with people with mental illness.

Question - Rep. Woods: What does “consult” imply? Does that mean the custodian has final say?

Answer - A parent or legal guardian has the legal right to determine treatment. If a decision maker for a minor denies permission for transport, there is little that can be done on the spot although it may be resolved through the court. If it's an IEA, the issue is consent to transport and the type of transportation. Regarding payment for an ambulance ride, Medicaid may be responsible. Attachment #6: Written testimony by Kenneth Norton.

Michael Skibbie, Disability Rights Center –
Supports the bill. The consultation requirement in regard to minors is current law and he has not heard it to be a problem. In this case, we are assigning the risk of harm to the one who is the most vulnerable and the most likely to suffer long term harm.

*** 7 Paula Minnaham, NH Hospital Association –**
Supports the bill. Attachment #7: Written testimony.

Respectfully submitted,



Rep. Susan Ticehurst, Clerk

House Committee on Health, Human Services & Elderly Affairs
Public Hearing on SB 177

Bill Title:	relative to the use of physical restraints on persons who are involuntarily committed.		
Date:	4/24/19		
Room:	205	Time Public Hearing Called to Order:	2:23
		Time Adjourned:	3:35

Committee Members Present:

X	Shapiro
	Cannon
X	Stapleton
X	Nutter-Upham
X	Marsh
X	Salloway
X	Fothergill
X	Freitas
X	Snow
X	MacKay
X	Ticehurst
X	Weber

	DeClercq
X	Osborne
X	Acton
X	Woods
X	Pearson
X	Knirk
X	Guthrie
X	Nelson
X	McMahon
X	Campion

Testimony

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

*	Attch #	Name	Testimony:
		Introduced By: Sen. Sherman, Sponsor	Supports the bill. This has been a long standing issue in NH and there has been a committee to study use of constraints. Intent of the bill is to stop this routine practice. There are going to be instances when secure transport is appropriate. The committee recommendations aimed for a complete transformation. This bill, as amended, puts data gathering into statute. Goal was to make it meaningful but not

onerous. Currently law enforcement is called to make the transfer. Sometimes it is not appropriate or necessary and may be detrimental to the patient. The clinical provider at the hospital may decide what mode of transport is appropriate. Custody is transferred with the patient so that law enforcement can make the decision about what is the safest way to transport. On the EMS side, a similar standard occurs. The decision in the hospital is which mode of transportation. Once the custody is transferred, that entity is responsible for deciding on how. The EMS side documents the decision. For law enforcement it is not a requirement because it is a clinical decision and because it becomes part of the public record. The data gathering is simple.

Rep. Pearson: What about transporting from a clinic, rather than a hospital? Sen. Sherman: The patient must have had an Involuntary Emergency Admission (IEA). It was designed for hospital settings. Would like it to be applied everywhere the decision is made.

Rep. Snow: Current statute is that children can be transported by ambulance however the family must pay for it. Does this bill address this? Sen. Sherman: It would be billed like any other transport.

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Rep. Nelson: Should it say shall consult or must consult? Sen. Sherman: This wording is already in statute.

Rep. Woods: Regarding not being able to get a hold of a parent, if there is an emergency situation, two can physicians can sign. Sen. Sherman: Not in this situation. This is not an emergency situation.

Rep. Pearson: Regarding line 9: how about a physician assistant? Sen.

			<p>Sherman: I think there is an amendment coming. Rep. Marsh: In case of inability to contact a person, could a child be transported by law enforcement? Sen. Sherman: Deferred. Sherman would also like to amend lines 12-14 which don't match line 18 because it doesn't have the word property. Rep. Woods: Page 1, line 20, regarding physical restraint devices seems broad. Sen. Sherman: This is in statute now. Typically that would mean chemical restraint.</p>
*	1	Patrick Dowling, Cheryl Dowling	<p>Spoke of his experience with the mental health system in two states. Felt compassion during treatment in Massachusetts, but like a criminal in New Hampshire. Rep. Pearson: Do you know of people with a similar disorder who suddenly and without warning act in a violent way. Dowling: Yes. Attachment #1: Written testimony.</p>
*	2	Dellie Champane	<p>Supports the bill; mother of a child with a chronic illness. Spoke of her son's transport to the hospital in handcuffs. Rep. Shapiro: One aspect of the bill calls for consulting with a parent. In some cases it could be safest to transport in restraints. As a parent, do you think you could have been helpful in making that assessment? Champane: Yes. Attachment #2: Written testimony.</p>
*	3	Barbara Brunelle	<p>Supports the bill. Spoke about a family member with a mental illness who had additional trauma by being in restraints. Attachment #3: Written testimony.</p>
*	4	Norma MacKonley Smith	<p>Spoke on behalf of Ellen Travino. Attachment #4: Written testimony of Ellen Travino.</p>
		Alexander de Nesnera, Department of Health and Human Services/New Hampshire Hospital	<p>Thanked the previous speakers. Sees patients arriving in handcuffs. In some cases this is necessary and in other cases it is not. Hoping to minimize the transporting of patients in restraints. Rep. Acton: Why would law enforcement be used since these are always medical situations? De Nesnera: this bill is an</p>

		<p>improvement because it puts the decision about how a patient can be safely transported into the hands of a medical person. Rep. Nelson: What do other states do? De Nesneera: The issue from NH's perspective is that NH Hospital accepts patients directly from emergency rooms. Other states have an intermediate step, where patients go to a psychiatric unit where they have been admitted to a medical facility so the mode of transport is by ambulance. It depends on the systems that are in place in each state. Rep. Shapiro: Is the collaboration of a parent and the emergency room staff an effective way to make a decision about a patient's safety on the way to the hospital? De Nesnera: We go on past behavior, what symptoms are...when we make a decision it will be with the input of family and the staff who were caring for the patient in the emergency room. Hopefully while waiting they will have been given treatment that will alleviate their symptoms. That said, we simply don't know how the patient will react but this is a good rational way to make a decision. Rep. Pearson: How would the situation where a person is behaving erratically but not in a hospital setting be handled? De Nesnera: In New Hampshire we have crisis intervention teams where specialized officers who are trained would make every effort to have that individual to be brought to an emergency room for assessment. The emergency room personnel would make the assessment about what action should be taken. Unfortunately, people in crisis may become agitated and assault a police officer and then be taken to a jail. There is also a way for them to go voluntarily to the NH Hospital. Rep. Stapleton: Are sedations useful in preparing the patient for transport? De Nesnera: There is a controversy about chemical restraints vs. mechanical restraints. He believes they</p>
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			should be offered the medication. When a person is transported it is not the common practice of involuntarily sedating them. Common practice is to offer medication to help alleviate the symptoms. When their symptoms abate, they may not even need to be sedated or admitted to NH Hampshire Hospital.
		Chief Bradley Osgood, Chief of Police in Concord	Supports the bill as amended. Looking forward to the data.
*	5	Sue Ellen Griffin, West Central Behavior Health.	Supports the bill. Past president of NH Community Behavioral Health Association. This bill satisfied law enforcement but also takes a step toward decriminalizing mental illness. Attachment #5: Written testimony.
*	6	Scott McGuffin, National Association on Mental Illness	Questions what kind of training in de-escalation while dealing with people with mental illness. Rep.Woods: What does "consult" imply? Does that mean the custodian has final say? McGuffin: a parent or legal guardian has the legal right to determine treatment. If a decision maker for a minor denies permission for transport, there is little that can be done on the spot although it may be resolved through the court. If it's an IEA, the issue is consent to transportation and the type of transportation. Regarding payment for an ambulance ride, Medicaid may be responsible. Attachment #6: Written testimony by Kenneth Norton.
		Michael Skibbie, Disability Rights Center	Supports the bill. The consultation requirement in regard to minors is current law and he has not heard it to be a problem. In this case, we are assigning the risk of harm to the one who is the most vulnerable and the most likely to suffer long term harm.
*	7	Paula Minnahan, NH Hospital Association	Supports the bill. Attachment #7: Written testimony.

Respectfully submitted,

Rep. Susan Ticehurst, Clerk

Testimony

April 24, 2019

The Honorable Lucy Weber, Chair
House Health, Human Services and Elderly Affairs
Legislative Office Building Room 205
33 N. State St.
Concord, NH 03301

Re: Support of SB 177, relative to the use of physical restraints on persons who are involuntarily committed

Dear Chair Weber and Honorable Members of the Committee,

My name is Patrick Dowling and I am a successful high school graduate who went on to attend college. At the age of 20, I was working a summer job when I started experiencing poor mental health symptoms. I was installing some carpet with a box cutter. My hand froze and I lost all concentration. I couldn't do anything. My boss asked me if I was stable. It was then I realized I was slipping. Within a few days I was in full-blown psychosis. I had no idea what was happening to me. I never realized these things could happen to an otherwise healthy person.

My Dad knew something horrible was happening and he called 911. We were living in Massachusetts at the time and I was taken to the local hospital in an ambulance. The following day I was assessed, and it was discovered that I needed further treatment at a psychiatric hospital. I was brought to that hospital in an ambulance – unshackled. Unfortunately, that's not how I was treated when I moved to New Hampshire.

I was diagnosed with schizoaffective disorder when I was in the Massachusetts hospital and my life changed dramatically after that. Due to my illness I had great difficulty holding down a job. I experienced psychotic episodes about every 3 months. I had two episodes in Massachusetts, and they were handled with compassion. Unfortunately, in NH the episodes were handled very differently, and I was made to feel like a criminal. This is because in NH, I was handcuffed and put in the back of a police cruiser. I have a serious illness - I didn't commit a crime. I was never a threat. I felt so ashamed about myself because of how I was treated.

I was in such a fragile state of mind and being handcuffed terrified me. The handcuffs led me to believe I was being brought to jail and not the hospital. This made my symptoms worse. When someone is experiencing a mental health crisis, they should feel care and compassion from their first responders and care givers – they should never be made to feel embarrassed and ashamed.

Fast forward to today – 5 years later. I am now working and managing my illness well. I still feel traumatized when I think about being handcuffed. The thought of it happening to me again honestly makes me feel hopeless. Please consider looking at what other states are doing and start treating the mentally ill with compassion. The decision to use shackles should be a medical decision made by doctors only when seen as absolutely necessary. The stigma around mental illness needs to be eliminated. This can be achieved by treating mental illness just like all other illnesses. The process of helping someone heal with any kind of illness should be done with compassion. You wouldn't handcuff a heart attack victim, would you?

Please strongly consider passing SB 177 and make sure no one has to experience the trauma I went through.

Sincerely,

Patrick Dowling

April 24, 2019

The Honorable Lucy Weber, Chair
House Health, Human Services and Elderly Affairs
Legislative Office Building Room 205
33 N. State St.
Concord, NH 03301

Re: Support of SB 177, relative to the use of physical restraints on persons who are involuntarily committed

Dear Chair Weber and Honorable Members of the Committee,

My name is Dellie Champagne and I am the mother of two beautiful children. I am here to tell you about my older son who is sick. He has a chronic illness that has consumed our family for the past 24 years. We have been able to keep him alive, but it has been no small undertaking.

My son was born in 1994 and early on we suspected that something wasn't right. It wasn't until his first year of preschool at the age of three that our suspicions were confirmed. His teachers had a difficult conversation with me and suggested we set up some testing. Finally, at the age of 7 during a visit to a Boston institution, we learned he had Asperger's Syndrome. It was a bittersweet moment. Just when we thought we had it all figured out, at the age of 12, the therapist he had been seeing told us she was seeing the early adolescent onset signs of a serious mental illness – schizoaffective disorder. She advised medication to help with the delusions and hallucinations and to continue with therapy. Unfortunately, nothing could prepare us for what lied ahead.

Our son suffered greatly over the next 9 years. I experienced heartbreak no mother should endure. I so desperately wanted to take away his pain and suffering and did everything I could within my power to do that. Most times, I could not give him what he needed.

Because NH is a state with very little community-based services for children, oftentimes families are forced to hospitalize their children to get care even though that high level of care is unnecessary. My son was hospitalized numerous times for his illness. Most of those hospitalizations were welcomed by him as he was desperate to alleviate his suffering. The first hospitalization occurred while he was at his middle school. He was in 8th grade. I had so desperately wanted to homeschool him, but he never wanted to give up hope that his classmates would begin accepting him and eventually befriend him. To my dismay, we kept him in the public school.

On that day he wrote a suicide note and then went into the boys' bathroom to take his life. Luckily his aide grew concerned and found him. The school immediately made two phone calls – one to me and one to the Concord Police Department. When I arrived, the police were already there. We began making a plan to bring him to the hospital. He was eager for the help and was a willing soon-to-be patient. To my surprise, they began discussing how they were going to take him out of the building in handcuffs. They told me it was standard procedure. I was quite confused as I thought handcuffs were for criminals. Surely there must be another way to take a willing sick person to the hospital?? They all began talking about an exit plan. They decided the front entrance probably made the most sense as the police cruiser was closest to that door. They handcuffed my sick son with the same shackles they used

on a criminal. I felt so incredibly sad for him. In a school of 1100 students, I wondered how many saw him being escorted out. This event would surely set him back. All the efforts he had been making to prove to his classmates that he was worthy of their friendship, were erased in that one moment.

My son was close to his only sibling, a brother who is three years younger. That brother attended the school next door. Unbeknownst to me, that younger brother and his fellow classmates had a perfect view of my son being escorted out of the school in handcuffs. What a traumatizing event for both of my children.

Subsequent hospitalizations always began at the Concord Hospital ED. We would wait in the yellow pod for a bed to open up at the NH Psychiatric Hospital and my son would have to be transported from hospital to hospital in the back of the police cruiser in handcuffs. Even though my son was eager to receive help, he was regularly made to feel like a criminal when shackles were used to transport him. I often wondered why he wasn't transported to the state hospital in an ambulance. Why did his illness have to be criminalized? If a person is a clear danger to himself or others, I absolutely understand the need to use appropriate shackles, but to not assess and treat each situation individually can have lasting traumatic effects on a willing patient. To assume all mentally ill people in crisis are dangerous is ignorant and only further strengthens that negative stereotype. Using shackles should only be used when qualified medical staff deem it absolutely necessary.

Please strongly consider supporting SB 177.

Sincerely,

Dellie Champagne

Wednesday, April 24, 2019 at 2:00 pm
Legislative Office Building, Room 205
33 North State Street, Concord, NH

Testimony in Support of Senate Bill 177

By Barbara R. Brunelle
Home: 14 Baldwin Lane, Bedford, NH 03110

Good afternoon, Chairman Sherman and other members of the Committee. My name is Barbara Brunelle and I live in Bedford, NH. I am here today to testify in support of Senate Bill 177.

I have a twenty-six-year old son. He is intelligent, kind-hearted, artistic, well-spoken, has a keen sense of humor, and has bipolar I disorder. Due to the severity of his illness, he has required numerous hospitalizations. When he arrives at the ER, he is confused, afraid, isolative, paranoid, and at times, delusional. As he waits for his opportunity to receive necessary treatment at New Hampshire Hospital, he is kept in a small white-walled room, with a bed secured to the floor, a t.v. high on the wall behind protective glass, and a heavy lockable door to limit his movement as deemed necessary. He has waited in this environment up to 20 days and nights for a bed at the state hospital.

Due to the extensive wait time in the ER of 1, 2, or 3 weeks, he will usually begin to clear and return to some sense of mental stability. When the ER staff offers a therapeutic approach based on trust and respect, my son feels safe and senses he is being supported, both physically and emotionally, and as a result his mental health improves.

Unfortunately during a prior mental health crisis, my son was physically and emotionally assaulted by people in positions of authority. He will forever carry the physical scars from the restraints as a constant reminder of the abuse and the PTSD continues to be difficult for him to process. This trauma impacts every interaction he has with providers of mental health services, and makes it extremely difficult for him to seek or accept help. It is a testimony to his inner strength and resilience that he is even able to consent to going to the ER when he needs to.

So when we receive the much-awaited call that a bed is available at the state hospital, I feel a range of emotions. Relief that the wait is finally over and he can begin to receive medical treatment at a psychiatric facility. Concern for how he will process and anticipate the transport and subsequent hospitalization. Questioning if this will be the last time this exhausting and emotionally painful scenario happens in our family.

So when I realize he will be finally receiving medical treatment after a multi-day/night wait, I also realize he will be put in handcuffs and possibly shackles, as he is transported from one hospital to another. Will the trust and feeling of safety he has now developed with the medical staff, be stolen away during his transport with an officer of the law?

~ continued on reverse side ~

When a patient's dignity is harmed unnecessarily, how can they truly trust anyone in their journey of recovery? The therapeutic relationship that has hopefully recently been formed, is now associated with this additional, unnecessary trauma, and thus this relationship, quite possibly, is now broken. One step forward, ten steps back.

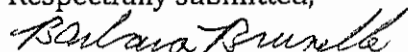
The protocol on the use of physical restraints on a person who is committed to a psychiatric hospital should be at the discretion of the patient's current treatment team with input and hopefully understanding from the patient themselves. Using knowledge and awareness of the patient's current status as well as their possible emotional triggers, are imperative to providing a more dignified, therapeutically-appropriate transition in medical care. When a person feels respected, safe, and heard, they are more likely to be open to receiving help. The dignity of the patient is more likely insured and trust in the process can offer comfort, security, and a piece of mind to a family already anxious about their loved one's condition.

On the other hand, when the antiquated, inhumane protocol in the use of restraints overrides the recommendation of medical professionals, the results include humiliation, shame, and further stress and trauma for the patient as well as their family. The majority of people experiencing a mental health crisis are not dangerous. Being handcuffed and placed in the back of a police vehicle is very stigmatizing and certainly does not instill comfort and trust in a system meant to support the patient in their recovery.

I must admit, I do hope that those involved with patient transport have completed crisis intervention training due to the sensitive nature of their duty. Since this important training further supports our mental health system. I am hopeful that in the near future, instead of law enforcement officers providing transport, trained emergency personnel will provide this necessary support in an ambulance or a secure unmarked vehicle, perhaps even including a staff member from the originating hospital or a family member to provide comfort during the ride to the receiving facility.

I am in strong support of Bill 177. When you handcuff individuals unnecessarily, it criminalizes mental health. We must stop advancing the stigma and discrimination behind mental illness and instead respect the expertise and compassion of trained medical professionals as well as the dignity of all patients and their families. Once an individual seeks medical treatment, the patient and the family should expect a continuity of care, where they are treated with respect and individuality, and be provided a continuous path of support, care, and hope. Thank you for your time and consideration.

Respectfully submitted,



Barbara R. Brunelle

Ellen Tavino
109 Church St.
Berlin, NH 03570
(603) 752-9811

April 20, 2019

This is in Regards to my support of SB177:

I am person with a significant mental illness. During my past, I had many hospitalizations—some voluntary, some not. When I was involuntarily hospitalized, I experience being put in restraints (Hand cuffs or waist to wrist restraint) I found this experience difficult to understand and difficult to process.

In crisis, I had reached a point where I could no longer keep myself safe. I truly felt worthless—that my very existence was harming everyone I cared about. Being transported by Sheriffs in restraints just made me feel even worse about myself. I needed help, but was treated as if I was a violent criminal.

In NH if I was in New Hampshire Hospital, I would have rights that would prevent the use of restraints unless a personal safety emergency was determines. However, also in New Hampshire, I can be put in restraints without those same protections to be transported to the hospital. Most times, restraints are unnecessary and traumatizing. The practice of using restraints just lessened my desire to seek help. People in a mental health crisis are not dangerous criminals. We are sick and need help.

I agree that there are times that restraints are important for safety issues. However, I found that for most of us, they were unnecessary. However, those times are covered in SB177. This bill allows the use of restraints, but ends the practice of using them as a routine practice. It allows them to be used much like in a hospital—when medical staff determine that restraints are required.

Please support this bill. It will both keep people safe when needed, but also stop a dehumanizing and traumatizing practice.

(I hereby give permission for NAMI NH representatives to present this testimony to the committee and other legislators.)

SB 177, relative to the use of physical restraints on persons who are involuntarily committed

Testimony 4/24/19

I am Suellen Griffin, President and CEO of West Central Behavioral Health in Lebanon and immediate past President of the NH Community Behavioral Health Association, which represents the 10 community mental health centers around the state.

SB 177 is the Community Behavioral Health Association's priority legislation for 2019 – this is an issue our Association has been working on for over 6 years and we sincerely hope there will finally be some resolution of the problem this year.

I want to thank Senator Tom Sherman for sponsoring SB 177 – which will give clinicians the authority to decide when physical restraints are used when persons who are involuntarily committed are being transported. I also want to thank our co-sponsors – Reps. MacKay, Guthrie, and Knirk – for your support and attention to this issue.

We also want to thank law enforcement for their willingness to compromise on this legislation. The bill before you today is language that the mental health centers, other providers, the Senate Health and Human Services Committee and law enforcement agreed on.

This bill, as introduced, proposed to shift the balance so that clinicians would have the ability to say whether or not restraints are necessary while transporting people to the hospital for treatment. As amended, SB 177 gives clinicians the authority to decide if a person in crisis is going by ambulance or a police or sheriff's vehicle. If it's the latter, then law enforcement makes the decision. So this bill satisfies law enforcement but it also makes an incremental step forward, toward decriminalizing mental illness.

Keep in mind that we are talking about people who are incredibly vulnerable -

These are individuals who are in a psychiatric crisis

These are individuals who could have a history of trauma

These are individuals who could be at high risk of harm – physically and mentally - by the use of restraints and by the use of seclusion

Also keep in mind that we are talking about children as well – not just adults. Dellie Champagne from the Children’s Behavioral Health Collaborative will speak later about her family’s experience with a child being put into restraints.

Proponents of SB 177 have said all along that there needs to be a balance with issues around safety and security – for the persons being transported and those who are doing the transporting. We think this bill as it comes to you from the Senate does that, and will help our most vulnerable citizens in a mental health crisis. The NH Community Behavioral Health Association urges you to support the Senate version of this bill.



NAMI | **New Hampshire**
National Alliance on Mental Illness

April 24, 2019

Honorable Chairwoman Lucy Weber
House Health, Human Services and Elderly Affairs
Legislative Office Building – Room 205
33 North State Street
Concord, NH 03301

Madam Chair and Members of the Committee,

Thank you for the opportunity to testify today. My name is Kenneth Norton and I serve as Executive Director of NAMI NH, the National Alliance on Mental Illness. I also have family members with serious mental illness and co-occurring substance use disorder. I am a Licensed Clinical Social Worker and during my career I spent almost 17 years working in community mental health. For much of that time I served as the liaison between New Hampshire Hospital and Lakes Region Mental Health Center tasked with coordinating admissions and discharges. For several years, my responsibilities included leading the emergency services team which provided psychiatric emergency response to both Lakes Region General Hospital in Laconia and Speare Memorial Hospital in Plymouth and I have been directly involved with many involuntary admissions.

NAMI NH strongly supports the overarching goal of SB 177 – reducing or eliminating the use of restraints on people being transported to New Hampshire Hospital. As advisors to the 10-Year Mental Health Plan, NAMI NH repeatedly recommended this issue be addressed in the plan. We believe it is fundamental to the reform of the mental health system.

The “treatment” of mental illness during the past hundred years is fraught with inhumane practices including forced electroshock therapies, ice baths, and lobotomies. Well-meaning though they may have been at the time, we now look back at them with horror and disgust. The use of restraint when transporting people for an involuntary hospitalization is a hold-over from those days and a practice we need to draw to a close. Restraints include handcuffs, leather wrist or wrist to waist restraints and sometimes leg shackles. Their use applies across the lifespan; while the law allows for children to be transported by ambulance, some arrive at New Hampshire Hospital in restraints as do elderly people on occasion as well.

Current law requires that once the paperwork is completed for an Involuntary Emergency Admission (IEA), that law enforcement/sheriffs are required to transport them. NAMI NH wants to be clear that proposed changes to the current practice is in no way a reflection of law enforcement and how they do the transport. They do a difficult task with professionalism and consistently treat people in a mental health crisis with dignity, respect and compassion. Rather

Find Help, Find Hope.

NAMI New Hampshire • 85 North State Street • Concord, NH 03301
InfoLine: 800-242-6264 • Tel. 603-225-5359 • Fax 603-228-8848 • info@naminh.org / www.NAMINH.org



HOUSE HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS COMMITTEE

April 24, 2019

SB 177 – Relative to Clarifying When Physical Restraints May be Used to Transport a Person Being Admitted to New Hampshire Hospital or a Designated Receiving Facility

Testimony

Good afternoon, Madam Chair and members of the committee. My name is Paula Minnehan, Senior VP, State Government Relations for the New Hampshire Hospital Association (NHHA), and I am here representing all 26 of our state’s community hospitals as well as all specialty hospitals.

NHHA supports SB 177, as amended by the Senate. We believe there is a shared goal among all stakeholders in doing what is best for the patient in supporting high quality, safe patient care while at the same time creating a safe environment for everyone involved.

Deciding on the use of restraints for individuals that have been certified as involuntary emergency admissions (IEA) is a difficult situation. When an individual has been certified as an IEA, it is because the individual was deemed to be a danger to himself or herself or to others, thus creating a question about safety.

This bill is focused on the very narrow situation of when a patient is being transferred from a hospital emergency department to New Hampshire Hospital (NHH) or a designated receiving facility (DRF). SB 177 updates state law to allow for transport by either law enforcement or by ambulance and allows the transporting entity to make a determination of use of restraints. The bill also requires specific data reporting by NHH or DRFs to better understand the use of restraints in our state.

SB 177, as amended by the Senate, was carefully crafted by many stakeholders. We urge you to vote to pass SB 177.

Thank you for the opportunity to provide our comments. I am happy to answer any questions you may have.

Bill as
Introduced

SB 177 - AS AMENDED BY THE SENATE

03/27/2019 1172s

2019 SESSION

19-0878

01/05

SENATE BILL **177**

AN ACT relative to the use of physical restraints on persons who are involuntarily committed.

SPONSORS: Sen. Sherman, Dist 24; Sen. Fuller Clark, Dist 21; Sen. Hennessey, Dist 5; Sen. Rosenwald, Dist 13; Sen. Watters, Dist 4; Rep. MacKay, Merr. 14; Rep. Guthrie, Rock. 13; Rep. Knirk, Carr. 3; Rep. Cushing, Rock. 21; Rep. Almy, Graf. 13

COMMITTEE: Health and Human Services

ANALYSIS

This bill clarifies when physical restraints may be used to transport a person being admitted to New Hampshire hospital or a designated receiving facility.

.....

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 Nineteen

AN ACT relative to the use of physical restraints on persons who are involuntarily committed.

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

1 1 Mental Health Services System; Delivery to a Receiving Facility. RSA 135-C:29 is repealed
2 and reenacted to read as follows:

3 135-C:29 Delivery to Receiving Facility.

4 I. Upon completion of an involuntary emergency admission certificate under RSA 135-C:28,
5 a law enforcement officer shall, except as provided in paragraph II, take custody of the person to be
6 admitted and shall immediately deliver such person to the receiving facility identified in the
7 certificate. The mode and circumstances of transport to the receiving facility shall be determined in
8 accordance with paragraph II.

9 II. The physician or APRN who is authorized to order involuntary emergency admission
10 under RSA 135-C:28, I shall determine which transport option should be used to transport the
11 person to New Hampshire hospital or the designated receiving facility. The transport options shall
12 be by ambulance or by law enforcement. The transporting agency shall deliver the person to the
13 designated receiving facility or New Hampshire hospital and shall determine whether restraint is
14 necessary to protect the safety of the person, personnel conducting the transport, or the public. In
15 the case of ambulance transport, such determination shall be in writing and shall state the factual
16 basis for the conclusion that physical restraints are necessary. Physical restraints shall be used
17 only to transport a person being admitted to New Hampshire hospital or a designated receiving
18 facility, if necessary, to protect the safety of the person, personnel conducting the transport,
19 property, or the public. For the purpose of this paragraph, "physical restraints" means the use of
20 mechanical devices or other means to restrict the movement of a person or the movement or normal
21 function of a portion of his or her body.

22 III. When the person being admitted to New Hampshire hospital or a designated receiving
23 facility is a child under age 18, the physician or APRN shall consult with the parent, guardian, or
24 legal custodian of the child prior to making the determination required under paragraph II.

25 IV. Each designated receiving facility and the chief executive officer of New Hampshire
26 hospital shall submit an annual report regarding the use of restraint and the use of different modes
27 of transportation to their facility. The report shall be submitted on or before November 1 of each
28 year to the oversight committee on health and human services, established in RSA 126-A:13, and
29 shall document the 12 months ending on September 30 of each year. The first report shall be for
30 the 9 months ending on September 30, 2020. The report shall detail the number of admissions of

SB 177 - AS AMENDED BY THE SENATE

- Page 2 -

- 1 children and adults, broken down by mode of transport, how often restraints were used in each
- 2 mode of transport, and if the restraint was applied before or during transport.
- 3 2 Effective Date. This act shall take effect January 1, 2020.