

Committee Report

REGULAR CALENDAR

October 20, 2020

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Children and Family Law to which
was referred HB 1278,

AN ACT relative to the use of psychotropic medications
for children in foster care. Having considered the same,
report the same: **NOT RECOMMENDED FOR FUTURE
LEGISLATION.**

Rep. David Coursin

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Children and Family Law
Bill Number:	HB 1278
Title:	relative to the use of psychotropic medications for children in foster care.
Date:	October 20, 2020
Consent Calendar:	REGULAR
Recommendation:	NOT RECOMMENDED FOR FUTURE LEGISLATION

STATEMENT OF INTENT

The Department of Children, Youth and Families (DCYF) is presently expanding an effective plan for monitoring the appropriate prescribing of psychotropic medications for children in foster care in NH. It would be prudent for the committee to request an update from DCYF on a yearly basis to confirm its progress. Legislation could be indicated if expectations were not met. This bill proposed statutory changes to the fundamental duties of the Boards of Medicine and Nursing Practice that were unprecedented and unwise. Any future legislation that might be called for because of unresolved problems can accomplish its goal without altering the original duties and focus of either Board or opening the door to either Board being called upon to establish specific prescribing rules for medical or nursing treatment.

Vote 15-0.

Rep. David Coursin
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Children and Family Law

HB 1278, relative to the use of psychotropic medications for children in foster care.**NOT RECOMMENDED FOR FUTURE LEGISLATION .**

Rep. David Coursin for Children and Family Law. The Department of Children, Youth and Families (DCYF) is presently expanding an effective plan for monitoring the appropriate prescribing of psychotropic medications for children in foster care in NH. It would be prudent for the committee to request an update from DCYF on a yearly basis to confirm its progress. Legislation could be indicated if expectations were not met. This bill proposed statutory changes to the fundamental duties of the Boards of Medicine and Nursing Practice that were unprecedented and unwise. Any future legislation that might be called for because of unresolved problems can accomplish its goal without altering the original duties and focus of either Board or opening the door to either Board being called upon to establish specific prescribing rules for medical or nursing treatment. **Vote 15-0.**

Original: House Clerk

Cc: Committee Bill File

Report on **HB 1278**

Motion: ***Not Recommend for Future Legislation***

Yes: 15

No: 0

DCYF is presently expanding an effective plan for monitoring the appropriate prescribing of psychotropic medications for children in foster care in NH. It would be prudent for the committee to request an update from DCYF on a yearly basis to confirm its progress. Legislation could be indicated if expectations were not met. This bill proposed statutory changes to the fundamental duties of the Boards of Medicine and Nursing Practice that were unprecedented and unwise. Any future legislation that might be called for because of unresolved problems can accomplish its goal without altering the original duties and focus of either Board, and opening the door to either Board being called upon to establish specific prescribing rules of a medical or nursing treatment.

The For the Committee:

Representative David Coursin

Voting Sheets

HOUSE COMMITTEE ON CHILDREN AND FAMILY LAW

EXECUTIVE SESSION on HB 1278

BILL TITLE: relative to the use of psychotropic medications for children in foster care.

DATE: September 23, 2020

LOB ROOM: Remote Meeting

MOTION:

Interim Study (2nd yr) Not Recommended for Future Legislation

Moved by Rep. Coursin

Seconded by Rep. Rice

Vote: 15-0

Respectfully submitted,

Rep Erika Connors, Clerk

HOUSE COMMITTEE ON
EXECUTIVE SESSION on

BILL TITLE: HB 1278

DATE: 9/23/20

LOB ROOM: Remote

MOTION: Recommended for Future Legislation
 Not Recommended for Future Legislation

Moved by Rep. Corson Seconded by Rep. Rice Vote: 15-0

Respectfully submitted,

Rep. 
Committee Clerk



2020 SESSION

Children and Family Law

Bill #: HB 1279 Motion: Not Recommended
For future leg AM #: _____ Exec Session Date: 9/23/20

Members	YEAS	Nays	NV
Long, Patrick T. Chairman	✓		
Berrien, Skip Vice Chairman	✓		
Mulligan, Mary Jane	✓		
Connors, Erika F. Clerk	✓		
Coursin, David R.	✓		
Diggs, Francesca G.			
French, Elaine H.			
Grossman, Gaby	✓		
Levesque, Cassandra N.	✓		
Petrigno, Peter	✓		
St. John, Michelle	✓		
Wazir, Safiya	✓		
DeSimone, Debra L.	✓		
Rice, Kimberly A.	✓		
Horn, Werner D.			
Camarota, Linda Rea	✓		
Fowler, William L.			
Jurius, Deanna E.			
Yokela, Josh S.	✓		
Rooney, Abigail G.	✓		
TOTAL VOTE:	15	0	

Sub-Committee Minutes

HOUSE COMMITTEE ON CHILDREN AND FAMILY LAW

SUBCOMMITTEE WORK SESSION on HB 1278

BILL TITLE: relative to the use of psychotropic medications for children in foster care.

DATE: September 23, 2020

Subcommittee Members: Reps. Long, Berrien, Connors, Mulligan, Coursin, Grossman, Levesque, Petrigno, St. John, Wazir, DeSimone, Rice, Camarota, Yokela and Rooney

Comments and Recommendations: Bill grew out of Insp. General Report. New Hampshire shows to have a problem with this. New Hampshire has a statistical influence from criminal justice. Ill timed. Major flaw involving legislature. DCYF has a plan. Driven by lack of resources and training. DCYF is making good steps. Better served by asking DCYF for a report.

Respectfully submitted,

Rep. Erika Connors
Subcommittee Clerk

SUBCOMMITTEE WORK SESSION on

BILL TITLE: HB 1278 relative to the use of psychotropic ...

DATE: 9/23/20

Subcommittee Members: Full Committee

Comments and Recommendations:

- Bill grew out of Insp. General Report. NH shows to have a problem with this. NH has a statistical influence from criminal justice. Ill timed. Major flaw involving legislature. DCYF has a plan. Driven by lack of resources + training. DCYF is making good steps. Better served by asking DCYF for a report - Conson

MOTION:

- Recommended for Future Legislation
- Not Recommended for Future Legislation

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

Respectfully submitted,

Rep. 
Subcommittee Chairman/Clerk

Committee Report

REGULAR CALENDAR

March 3, 2020

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on Children and Family Law to which
was referred HB 1278,**

**AN ACT relative to the use of psychotropic medications
for children in foster care. Having considered the same,
report the same with the recommendation that the bill
be REFERRED FOR INTERIM STUDY.**

Rep. David Coursin

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Children and Family Law
Bill Number:	HB 1278
Title:	relative to the use of psychotropic medications for children in foster care.
Date:	March 3, 2020
Consent Calendar:	REGULAR
Recommendation:	REFER FOR INTERIM STUDY

STATEMENT OF INTENT

The bill addresses a major problem in the services provided to children in foster care. The committee agrees with its intent, but believes there are important issues that argue against its passage in its present form. It is unclear that it is necessary at this time, given the commitment and unfolding plans of the Division of Children, Youth and Families, to directly monitor and resolve the deficiencies identified by the Inspector General's report from September 2018, referenced in the bill. The definition of psychotropic medications, despite reportedly being used by the Division of Health and Human Services, is unnecessarily vague. Psychotropic medications can be more specifically defined as those medications indicated to treat mental disorders defined in the most current edition of the Diagnostic and Statistical Manual of Mental Disorders. Finally, and most importantly, the bill seeks to add new duties to both the Boards of Medicine and Nursing that would be unprecedented and inappropriate to the mission of these boards. Interim Study will create the opportunity for these issues and others to be resolved, and to determine whether there is an appropriate bill to proceed with.

Vote 19-0.

Rep. David Coursin
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Children and Family Law

HB 1278, relative to the use of psychotropic medications for children in foster care. **REFER FOR INTERIM STUDY.**

Rep. David Coursin for Children and Family Law. The bill addresses a major problem in the services provided to children in foster care. The committee agrees with its intent, but believes there are important issues that argue against its passage in its present form. It is unclear that it is necessary at this time, given the commitment and unfolding plans of the Division of Children, Youth and Families, to directly monitor and resolve the deficiencies identified by the Inspector General's report from September 2018, referenced in the bill. The definition of psychotropic medications, despite reportedly being used by the Division of Health and Human Services, is unnecessarily vague. Psychotropic medications can be more specifically defined as those medications indicated to treat mental disorders defined in the most current edition of the Diagnostic and Statistical Manual of Mental Disorders. Finally, and most importantly, the bill seeks to add new duties to both the Boards of Medicine and Nursing that would be unprecedented and inappropriate to the mission of these boards. Interim Study will create the opportunity for these issues and others to be resolved, and to determine whether there is an appropriate bill to proceed with. **Vote 19-0.**

Original: House Clerk

Cc: Committee Bill File

COMMITTEE REPORT

COMMITTEE: CH+FAM

BILL NUMBER: 1278

TITLE: relative to the use of psychotropic...

DATE: 3/3/20 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:

All email for statement

COMMITTEE VOTE: 19-0

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

RESPECTFULLY SUBMITTED,

Rep. *[Signature]*
For the Committee

HB 1278

Interim Study

The bill addresses a major problem in the services provided to children in foster care. The committee agrees with its intent, but believes there are important issues that argue against its passage in its present form. It is unclear that it is necessary at this time given the commitment and unfolding plans of DCYF to directly monitor and resolve the deficiencies identified by the Inspector General's report of September 2018 referenced in the bill. The definition of psychotropic medications, despite reportedly being used by DHHS, is unnecessarily vague. Psychotropic medications can be more specifically defined as those medications indicated to treat mental disorders defined in the most current edition of the Diagnostic and Statistical Manual of Mental Disorders. Finally and most importantly, the bill seeks to add new duties to both the Boards of Medicine and Nursing that would be unprecedented and inappropriate to the mission of these Boards. Interim study will create the opportunity for these issues and others to be resolved and to determine whether there is an appropriate bill to proceed with.

Voting Sheets

HOUSE COMMITTEE ON CHILDREN AND FAMILY LAW

EXECUTIVE SESSION on HB 1278

BILL TITLE: relative to the use of psychotropic medications for children in foster care.

DATE: March 3, 2020

LOB ROOM: 206

MOTIONS: REFER FOR INTERIM STUDY

Moved by Rep. Coursin

Seconded by Rep. Rice

Vote: 19-0

CONSENT CALENDAR: NO

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Erika Connors, Clerk

HOUSE COMMITTEE ON CHILDREN AND FAMILY LAW

EXECUTIVE SESSION on HB 1278

BILL TITLE: relative to the use of psychotropic medications for children in foster care.

DATE: 3/3/20

LOB ROOM: 206

MOTION: (Please check one box)

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

Moved by Rep. Coursin Seconded by Rep. Rice Vote: 19-0

MOTION: (Please check one box)

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

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

MOTION: (Please check one box)

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

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

MOTION: (Please check one box)

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

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

CONSENT CALENDAR: ___ YES ✓ NO

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

Respectfully submitted: Erika Connors
Rep Erika Connors, Clerk

STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK



1/2/2020 9:28:25 AM
Roll Call Committee Registers
Report

2020 SESSION

Children and Family Law

Bill #: 1278 Motion: Int. Stu. AM #: _____ Exec Session Date: 3/3/20

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Long, Patrick T. Chairman	19		
Berrien, Skip Vice Chairman	1		
Mulligan, Mary Jane	2		
Connors, Erika F. Clerk	3		
Coursin, David R.	4		
Diggs, Francesca G.	5		
French, Elaine H.	6		
Grossman, Gaby	7		
Levesque, Cassandra N.	8		
Petrigno, Peter	9		
St. John, Michelle	10		
Wazir, Safiya	11		
DeSimone, Debra L.	12		
Rice, Kimberly A.	13		
Camarota, Linda Rea			
Horn, Werner D.	14		
Fowler, William L.	15		
Jurius, Deanna E.	16		
Yokela, Josh S.	17		
Rooney, Abigail G. <u>Bean</u>	18		
TOTAL VOTE:	19	0	

Hearing Minutes

HOUSE COMMITTEE ON CHILDREN AND FAMILY LAW

PUBLIC HEARING ON HB 1278

BILL TITLE: relative to the use of psychotropic medications for children in foster care.

DATE: 3/3/20

ROOM: 206

Time Public Hearing Called to Order: 11:45

Time Adjourned: 12:

(please circle if present)

Committee Members: Reps. Long, Berrien, Connors, Mulligan, Coursin, Diggs, French, Grossman, Levesque, Petrigno, St. John, Wazir, DeSimone, Rice, Camarota, Horn, Fowler, Jurius, Yokela and Rooney

Bill Sponsors:

Rep. Marsh
Rep. M. Pearson
Rep. Salloway
Rep. Martin
Sen. Rosenwald

Rep. Berrien
Rep. P. Schmidt
Rep. Nutter-Upham
Sen. Bradley
Sen. Chandley

Rep. Camarota
Rep. Gay
Rep. Danielson
Sen. Sherman

TESTIMONY

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

① Rep. Camarota - co-sponsor

- Requires the development of a program by Health and Human Services for psychotropic medications
- Experience as a school nurse with administering meds.

② Rep. Marsh - sponsor

- Submitted in response to a filed report by Inspector General
- NH has 3rd highest rate in the nation for prescribing these meds to children in foster care
- Kids receiving meds without a diagnosis
- California passed a similar bill in 2015

- Sees a savings for NH
- Need for medication monitoring + standards
- Defined in bill and comes from DCYF
- Nothing in this bill mandates prior authorization
- Gives specific ~~statutory~~ oversight

③ Rep. Coursin - opposes the bill

- It is a significant clinical issue
- Issue is funding, training, and monitoring
- Nurses in DHHS ~~would~~ ^{are} closely monitoring w/ specific criteria

If there was a practitioner that was consistently non-compliant they would not be working with them. → This process is ~~being developed~~ ^{in place + is currently expanding.}

- Sets a new precedent for Board of Medicine duties and opens door for further requests. We should not take that step.
- Board of Medicine would not currently have the manpower. It is done by volunteers.
- Board of Medicine could hear the complaint against any practitioner who didn't ~~meet~~ ^{meet} DCYF's standards.
- Use of these meds must be tied to a diag~~nosis~~ ^{nosis}
- The bill is unnecessarily judgemental and doesn't take into account most recent data
- Data on NH includes children in foster care ~~and~~ and juvenile justice system so numbers are not comparable to other states

④ Rebecca Ross - DCYF - not taking a position

- Share same concerns as sponsors

- NH tracks cases differently causing numbers to be higher than other states
- # of nurse's is insufficient to track medical care, positions are posted to add positions back
- Modified contract w/ Dartmouth for a psychiatrist at Sununu Ctr.
- Will not continue using a provider who does not meet prescribing standards
- Would have concerns if DCYF had to stop steps they are taking and restart the process with this bill
- Managed Care Plans in Department will be taking a look at this as well
- DCYF is taking appropriate steps with the resources we have given them. Faster path is one we are currently taking.

* Written Testimony from Moira O'Neill

Testimony



Moira O'Neill
Director

State of New Hampshire

Office of the Child Advocate

**Testimony of
Moira O'Neill, PhD, RN
Director of the Office of the Child Advocate
before**

**The New Hampshire House of Representatives Children and Family Law Committee
March 3, 2020**

Good morning Chairman Long, Vice-Chairman Berrien, and esteemed members of the Children and Family Law Committee. My name is Moira O'Neill and I am the Director of the Office of the Child Advocate. The Office provides oversight of the Division for Children, Youth and Families (DCYF) and assures the protection of children's best interest. Thank you for the opportunity to speak in support of **House Bill 1278, An Act relative to the use of psychotropic medications for children in foster care**. The bill requires the Department of Health and Human Services establish oversight of treatment planning and medication monitoring for children in custody with rules for administration of psychotropic medications.

The Office of the Child Advocate heartily supports HB 1278. This is an urgent matter. The statement of intent to HB 1278 references the U.S. Office of Inspector General's report entitled "Treatment Planning and Medication Monitoring Were Lacking for Children in Foster Care Receiving Psychotropic Medication" (Inspector General's Report).¹ The report pointed out that New Hampshire had on the highest percentages of children foster care prescribed these drugs and many without appropriate treatment plans. While the Inspector General called attention to the lack of monitoring this high usage, the situation is actually worse than it sounds. In New Hampshire, in addition to the absence of centrally monitoring medical and mental health care of children in DCYF custody, there is little day-to-day qualified assessment of the drug use in residential care. It is not common or required that New Hampshire residential facilities employ registered nurses to provide care, manage treatment plans and administer medications. While like most states, New Hampshire allows unlicensed personnel to be certified to administer medications, professional practice regulations in other states require they do so under the direct supervision of a registered nurse. That does not appear to be the case in New Hampshire. Because not all facilities employ registered nurses, unlicensed personnel are administering potentially dangerous medications without direct supervision. Some might argue that parents are not health care experts and they administer medications all the time. However, parents know and are invested in their children. They are given guidance from and consult with medical

¹ Available at <https://oig.hhs.gov/oei/reports/oei-07-15-00380.pdf>.

professionals to watch for side effects or ineffectiveness of the drugs, and when they do not or when there are concerns for a parent's mismanagement of a child's medication, there are systems in place to protect children.

The children in DCYF custody are predominantly children who are victims of abuse, neglect, or other family dysfunction causing high rate of adverse childhood experiences (ACES). ACEs are associated with mental illness and communication disorders that manifest as problem behavior.² Generally, removal from home is a response to the need for safety. Treatment is prompted by persistent symptoms of mental illness or the problem behavior. The Inspector General's report, and others before it,³ indicate that the response to these distressed children has been to medicate them with psychotropic drugs. Anecdotally, the Office of the Child Advocate has reviewed children's cases in which problematic changes in a child's behavior appear primarily addressed with medication changes. In addition to the concern for overprescribing, there has been a notable absence of evidence based psychosocial therapy in children's treatment plans. That is why the federal Family Service Improvement and Innovation Act (P.L.112-34) requires states to include a psychotropic medication oversight plan in their state Child and Family Services Plans that describes screening, assessment and treatment of children's needs, a mechanism for informed consent, a system for monitoring medication use at both individual and population-based levels, and availability of information about pharmacological and non-pharmacological evidence-based practices. Our understanding is that DCYF's current plan is insufficient. H.B.1278 will bring the State into compliance with the federal law and better serve children.

The effects of psychotropic medications in children are not entirely understood, and because of the nature of their developing brains, there have been few clinical trials of the drugs on children. I provide a simple table of known side effects to demonstrate the importance of monitoring. There are three categories of side effects with the various types of psychotropic drugs including stimulants, antipsychotics and mood stabilizers.⁴

Minor	Headaches, drowsiness, thirst and increased urination, dry or metallic taste in mouth
Moderate	Decreased appetite, restlessness, nausea, vomiting, diarrhea, trembling, acne, hair loss, dizziness, irritability, blood sugar fluctuations

² Felitti, VJ, Anda, RF, Nordenberg, D Edwards, V, Koss, MP, Marks, JS (1998). Relationship of childhood abuse and household dysfunction to many of the leading causes of death in adults: The adverse childhood experiences (ACE) study. *American Journal of Preventive Medicine*, 14 (4): P245-258. DOI: [https://doi.org/10.1016/S0749-3797\(98\)00017-8](https://doi.org/10.1016/S0749-3797(98)00017-8).

³ Stambaugh, L.F., Leslie, L.K., Ringeisen, H., Smith, K., & Hodgkin, D. (2012). *Psychotropic medication use by children in child welfare*. OPRE Report #2012-33, Washington, DC: Office of Planning, Research and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services.

⁴ American Academy of Child & Adolescent Psychiatry (2012). A Guide for Community Child Serving Agencies on Psychotropic Medications for Children and Adolescents. http://www.aacap.org/App_Themes/AACAP/docs/press/guide_for_community_child_serving_agencies_on_psychotropic_medications_for_children_and_adolescents_2012.pdf

Severe	Obesity, hypertension, seizures, bed wetting, abnormal kidney, liver, thyroid, and parathyroid function, increased white blood cells, cardiac arrhythmias, suicidality
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Necessary monitoring of the use of psychotropic drugs includes evidence basis for prescribing, observation of intended and unintended effects, periodic blood tests for drug levels, impact on organ function, and interactions with other medications and foods. Most importantly, monitoring should also include access to non-pharmacological interventions.

For these reasons, I encourage you to support **HB 1278, An Act relative to the use of psychotropic medications for children in foster care.**

Thank you very much for taking my testimony in support of HB 1278. I am happy to answer any questions you may have

Bill as Introduced

HB 1278 - AS INTRODUCED

2020 SESSION

20-2024
05/06

HOUSE BILL **1278**

AN ACT relative to the use of psychotropic medications for children in foster care.

SPONSORS: Rep. Marsh, Carr. 8; Rep. Berrien, Rock. 18; Rep. Camarota, Hills. 7; Rep. M. Pearson, Rock. 34; Rep. P. Schmidt, Straf. 19; Rep. Gay, Rock. 8; Rep. Salloway, Straf. 5; Rep. Nutter-Upham, Hills. 33; Rep. Danielson, Hills. 7; Rep. Martin, Hills. 23; Sen. Bradley, Dist 3; Sen. Sherman, Dist 24; Sen. Rosenwald, Dist 13; Sen. Chandley, Dist 11

COMMITTEE: Children and Family Law

ANALYSIS

This bill requires the department of health and human services to establish a program to oversee treatment planning and medication monitoring for children in foster care and to adopt rules relative to the administration of psychotropic medications for such children.

.....

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 Twenty

AN ACT relative to the use of psychotropic medications for children in foster care.

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

1 Statement of Intent. Cognizant of the September 2018 report from the United States Office of
2 the Inspector General entitled "Treatment Planning and Medication Monitoring Were Lacking for
3 Children in Foster Care Receiving Psychotropic Medication" and the proposed settlement in United
4 States District Court of M.B., et al. v. Tidball, et al., Civil Action Number 2:17-cv-04102-NKL, the
5 general court intends the commissioner of health and human services to address the issue of the use
6 of psychotropic medications in children in foster care and strengthen oversight of psychotropic
7 medication use among this high-risk population. In the September, 2018 report, New Hampshire
8 was cited as having one of the highest rates in the nation of foster children being treated with
9 psychotropic medications, and many of these children also did not have an appropriate treatment
10 plan. Children in foster care have often faced disparate levels of trauma, abuse, or poverty, so are
11 especially in need of tailored, comprehensive support. Proper assessment, treatment planning, and
12 medication monitoring are important safeguards to ensure that children get the medication they
13 need if, and only if, it is deemed clinically necessary. The general court recognizes that these
14 medications can have serious side effects, such as drowsiness, weight gain, nausea, headaches,
15 involuntary movements, and tremors, among others. Furthermore, certain medications carry black
16 box warnings from the Food and Drug Administration, including antidepressant medication and
17 suicidality in the pediatric population, and stimulant medication and sudden death in the pediatric
18 population. They are not intended for use without appropriate medical supervision. Therefore, the
19 following is enacted to address this issue.

20 2 New Paragraph; Delinquent Children; Definition of Psychotropic Medication Added. Amend
21 RSA 169-B:2 by inserting after paragraph XIII the following new paragraph:

22 XIII-a. "Psychotropic medication" means a drug prescribed by a licensed medical
23 practitioner, to treat illnesses that affect psychological functioning, perception, behavior, or mood.

24 3 Delinquent Children; Treatment Plan Involving the Use of Psychotropic Medication. Amend
25 RSA 169-B:23 to read as follows:

26 169-B:23 Orders for Physical Examination and Treatment. If it is alleged in any petition, or it
27 appears at any time during the progress of the case, that a delinquent is in need of physical
28 treatment, the failure to receive which is a contributing cause of delinquency, due notice of that fact
29 shall be given as provided in RSA 169-B:7. If the court, upon hearing, finds that such treatment is
30 reasonably required, it shall be ordered and the expense thereof shall be borne as provided in RSA
31 169-B:40. *In order to maintain continuity of care, improve the coordination of services*

1 *between health and child welfare professionals, and reduce the risk of harmful side effects,*
2 *any treatment plan involving the use of psychotropic medications shall be compliant with*
3 *the rules developed by the department pursuant to RSA 170-G:4, XX and records shall be*
4 *maintained pursuant to RSA 169-B:31-b, I and RSA 170-G:8-a.*

5 4 New Paragraph; Child Protection Act; Definition of Psychotropic Medication Added. Amend
6 RSA 169-C:3 by inserting after paragraph XXV the following new paragraph:

7 XXV-a. "Psychotropic medication" means a drug prescribed by a licensed medical
8 practitioner, to treat illnesses that affect psychological functioning, perception, behavior, or mood.

9 5 New Paragraph; Duties of the Department of Health and Human Services Under the Child
10 Protection Act; Oversight of Children in Foster Care Receiving Psychotropic Medication. Amend
11 RSA 169-C:34 by inserting after paragraph VII the following new paragraph:

12 VIII. In order to maintain continuity of care, improve the coordination of services between
13 health and child welfare professionals, and reduce the risk of harmful side effects, any treatment
14 plan involving the use of psychotropic medication for the child shall comply with the rules developed
15 by the department pursuant to RSA 170-G:4, XX and records shall be maintained pursuant to RSA
16 170-G:8-a.

17 6 New Paragraph; Children in Need of Services (CHINS); Definition of Psychotropic Medication
18 Added. Amend RSA 169-D:2 by inserting after paragraph XIII the following new paragraph:

19 XIII-a. "Psychotropic medication" means a drug prescribed by a licensed medical
20 practitioner, to treat illnesses that affect psychological functioning, perception, behavior, or mood.

21 7 New Paragraph; Children in Need of Services; Oversight of Children in Foster Care Receiving
22 Psychotropic Medication. Amend RSA 169-D:17 by inserting after paragraph VIII the following new
23 paragraph:

24 IX. In order to maintain continuity of care, improve the coordination of services between
25 health and child welfare professionals, and reduce the risk of harmful side effects, any treatment
26 plan involving the use of psychotropic medication for the child shall comply with the rules developed
27 by the department pursuant to RSA 170-G:4, XX and records shall be maintained pursuant to RSA
28 170-G:8-a.

29 8 New Subparagraph; Residential Care and Child Placing Agency Licensing; Compliance with
30 Rules Relative to the Use of Psychotropic Medication in Children. Amend RSA 170-E:34, I by
31 inserting after subparagraph (h) the following new subparagraph:

32 (i) Compliance with the rules relative to the use of psychotropic medications in children
33 under RSA 170-G:4, XX.

34 9 Services for Children, Youth and Families; Definition of Psychotropic Medication Added.
35 Amend RSA 170-G:1 by inserting after paragraph VII the following new paragraph:

36 VIII. "Psychotropic medication" means a drug prescribed by a licensed medical practitioner,
37 to treat illnesses that affect psychological functioning, perception, behavior, or mood.

1 10 New Paragraph; Services for Children, Youth and Families; Duties of the Department of
2 Health and Human Services; Program to Oversee Treatment Planning and Medication Monitoring
3 for Children in Foster Care Receiving Psychotropic Medication; Rulemaking Required. Amend RSA
4 170-G:4 by inserting after paragraph XX the following new paragraph:

5 XXI.(a) The department shall develop and implement a program to oversee treatment
6 planning and medication monitoring for children in foster care for the purpose of enhancing
7 continuity of care, improving coordination of services between health and child welfare professionals,
8 and reducing the risk of harmful side effects. The program shall ensure the availability of an
9 effective trauma screening process, include a plan to increase access to trauma-informed
10 interventions that can reduce the likelihood that a child will be inappropriately prescribed
11 psychotropic medication, and encourage non-medication interventions when appropriate. The
12 department shall, in consultation with the board of medicine and the board of nursing, adopt rules
13 under RSA 541-A, relative to administration of the program, including requirements regarding
14 diagnosis, treatment planning, and psychotropic medication monitoring for children in foster homes.

15 (b) The department shall submit the final proposed rules required under this paragraph
16 to the joint legislative committee on administrative rules within 6 months of the effective date of this
17 paragraph. Such rules shall take effect January 1, 2021.

18 11 New Subparagraph; Confidentiality of Department Case Records; Access by Licensed Medical
19 Practitioner. Amend RSA 170-G:8-a, II(b) by inserting after subparagraph (4) the following new
20 subparagraph:

21 (5) A licensed medical practitioner who is overseeing the use of psychotropic
22 medication prescribed to the child.

23 12 New Paragraph; Foster Care Children's Bill of Rights. Amend RSA 170-G:21 by inserting
24 after paragraph II the following new paragraph:

25 II-a. To receive appropriate medical supervision of any prescribed psychotropic medications
26 according to the rules adopted pursuant to RSA 170-G:4, XX.

27 13 New Paragraph; Nurse Practice Act; Assistance in the Development of Rules for the Use of
28 Psychotropic Medications in Children. Amend RSA 326-B:4 by inserting after paragraph XIV the
29 following new paragraph:

30 XV. Assist the department of health and human services in establishing rules for the use of
31 psychotropic medications in children pursuant to RSA 170-G:4, XX and apply such rules to the
32 evaluation of licensees under the this chapter.

33 14 New Subparagraph; Board of Medicine; Assistance in the Development of Rules for the Use
34 of Psychotropic Medications in Children. Amend RSA 329:2, II by inserting after subparagraph II(e)
35 the following new subparagraph:

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1 (f) Assist the department of health and human services in establishing rules for the use
2 of psychotropic medications in children pursuant to RSA 170-G:4, XX and apply such rules in board
3 investigations or evaluations under subparagraphs (b) and (c).

4 15 Effective Date.

5 I. Sections 3, 5, 7, 8 and 12 of this act shall take effect January 1, 2021.

6 II. The remainder of this act shall take effect upon its passage.