

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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SENATE BILL 437\*  
Health Care Committee Substitute Adopted 4/14/11  
Third Edition Engrossed 4/19/11  
House Committee Substitute Favorable 6/15/11

Short Title: Enact First Evaluation Program.

(Public)

Sponsors:

Referred to:

March 29, 2011

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE SECRETARY OF HEALTH AND HUMAN SERVICES TO ALLOW CERTAIN CERTIFIED PROVIDERS TO CONDUCT INITIAL (FIRST-LEVEL) EXAMINATIONS FOR INVOLUNTARY COMMITMENT OF INDIVIDUALS WITH MENTAL ILLNESS, IN A MANNER CONSISTENT WITH THE FIRST EVALUATION PILOT PROGRAM.

The General Assembly of North Carolina enacts:

**SECTION 1.** Part 7 of Article 5 of Chapter 122C of the General Statutes is amended by adding a new section to read:

**"§ 122C-263.1 Secretary's authority to waive requirement of first examination by physician or eligible psychologist; training of certified providers performing first examinations.**

(a) The Secretary of Health and Human Services may, upon request of an LME, waive the requirements of G.S. 122C-261 through G.S. 122C-263 and G.S. 122C-281 through G.S. 122C-283 pertaining to initial (first-level) examinations by a physician or eligible psychologist of individuals meeting the criteria of G.S. 122C-261(a) or G.S. 122C-281(a), as applicable, as follows:

(1) The Secretary has received a request from an LME to substitute for a physician or eligible psychologist, a licensed clinical social worker, a master's level psychiatric nurse, or a master's level certified clinical addictions specialist in accordance with subdivision (8) of this subsection to conduct the initial (first-level) examinations of individuals meeting the criteria of G.S. 122C-261(a) or G.S. 122C-281(a). In making this type of request, the LME shall specifically describe all of the following:

- a. How the purpose of the statutory requirement would be better served by waiving the requirement and substituting the proposed change under the waiver.
- b. How the waiver will enable the LME to improve the delivery or management of mental health, developmental disabilities, and substance abuse services.
- c. How the health, safety, and welfare of individuals will continue to be at least as well protected under the waiver as under the statutory requirement.



- 1           (2)    The Secretary shall review the request and may approve it upon finding all  
2           of the following:  
3           a.       The request meets the requirements of this section.  
4           b.       The request furthers the purposes of State policy under G.S. 122C-2  
5           and mental health, developmental disabilities, and substance abuse  
6           services reform.  
7           c.       The request improves the delivery of mental health, developmental  
8           disabilities, and substance abuse services in the counties affected by  
9           the waiver and also protects the health, safety, and welfare of  
10          individuals receiving these services.  
11          (3)    The Secretary shall evaluate the effectiveness, quality, and efficiency of  
12          mental health, developmental disabilities, and substance abuse services and  
13          protection of health, safety, and welfare under the waiver.  
14          (4)    A waiver granted by the Secretary under this section shall be in effect for a  
15          period of up to three years and may be rescinded at any time within this  
16          period if the Secretary finds the LME has failed to meet the requirements of  
17          this section.  
18          (5)    In no event shall the substitution of a licensed clinical social worker,  
19          master's level psychiatric nurse, or master's level certified clinical addictions  
20          specialist under a waiver granted under this section be construed as  
21          authorization to expand the scope of practice of the licensed clinical social  
22          worker, the master's level psychiatric nurse, or the master's level certified  
23          clinical addictions specialist.  
24          (6)    The Department shall require that individuals performing initial  
25          examinations under the waiver have successfully completed the  
26          Department's standardized training program and examination. The  
27          Department shall maintain a list of these individuals on its Web site.  
28          (7)    As part of its waiver request, the LME shall document the availability of a  
29          physician to provide backup support.  
30          (8)    A master's level certified clinical addiction specialist shall only be  
31          authorized to conduct the initial examination of individuals meeting the  
32          criteria of G.S. 122C-281(a).  
33          (b)    The Division of Mental Health, Developmental Disabilities, and Substance Abuse  
34          Services shall expand its standardized certification training program to include refresher  
35          training for all certified providers performing initial examinations pursuant to subsection (a) of  
36          this section."

37           **SECTION 2.** Beginning January 1, 2012, each 24-hour residential facility that (i)  
38 falls under the category of nonhospital medical detoxification, facility-based crisis service, or  
39 inpatient hospital treatment, (ii) is not a State facility under the jurisdiction of the Secretary of  
40 Health and Human Services, and (iii) is designated by the Secretary of Health and Human  
41 Services as a facility for the custody and treatment of individuals under a petition of  
42 involuntary commitment pursuant to G.S. 122C-252 and 10A NCAC 26C .0101 shall submit a  
43 written report on involuntary commitments each January 1 and each July 1 to the Department  
44 of Health and Human Services, Division of Mental Health, Developmental Disabilities, and  
45 Substance Abuse Services. The report shall include all of the following:

- 46           (1)    The number and primary presenting conditions of individuals receiving  
47           treatment from the facility under a petition of involuntary commitment.  
48           (2)    The number of individuals for whom an involuntary commitment proceeding  
49           was initiated at the facility, who were referred to a different facility or  
50           program.

1                   (3)    The reason for referring the individuals described in subdivision (2) of this  
2                   section to a different facility or program, including the need for more  
3                   intensive medical supervision.

4                   **SECTION 3.** This act becomes effective October 1, 2011.