

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

SESSION LAW 2011-346
SENATE BILL 437

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.
- (2) The Secretary shall review the request and may approve it upon finding all of the following:
 - a. The request meets the requirements of this section.
 - b. The request furthers the purposes of State policy under G.S. 122C-2 and mental health, developmental disabilities, and substance abuse services reform.
 - c. The request improves the delivery of mental health, developmental disabilities, and substance abuse services in the counties affected by



the waiver and also protects the health, safety, and welfare of individuals receiving these services.

- (3) The Secretary shall evaluate the effectiveness, quality, and efficiency of mental health, developmental disabilities, and substance abuse services and protection of health, safety, and welfare under the waiver.
- (4) A waiver granted by the Secretary under this section shall be in effect for a period of up to three years and may be rescinded at any time within this period if the Secretary finds the LME has failed to meet the requirements of this section.
- (5) In no event shall the substitution of a licensed clinical social worker, master's level psychiatric nurse, or master's level certified clinical addictions specialist under a waiver granted under this section be construed as authorization to expand the scope of practice of the licensed clinical social worker, the master's level psychiatric nurse, or the master's level certified clinical addictions specialist.
- (6) The Department shall require that individuals performing initial examinations under the waiver have successfully completed the Department's standardized training program and examination. The Department shall maintain a list of these individuals on its Web site.
- (7) As part of its waiver request, the LME shall document the availability of a physician to provide backup support.
- (8) A master's level certified clinical addiction specialist shall only be authorized to conduct the initial examination of individuals meeting the criteria of G.S. 122C-281(a).

(b) The Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall expand its standardized certification training program to include refresher training for all certified providers performing initial examinations pursuant to subsection (a) of this section."

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

- (1) The number and primary presenting conditions of individuals receiving treatment from the facility under a petition of involuntary commitment.
- (2) The number of individuals for whom an involuntary commitment proceeding was initiated at the facility, who were referred to a different facility or program.
- (3) The reason for referring the individuals described in subdivision (2) of this section to a different facility or program, including the need for more intensive medical supervision.

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

In the General Assembly read three times and ratified this the 17th day of June, 2011.

s/ Walter H. Dalton

President of the Senate

s/ Thom Tillis
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 11:59 a.m. this 27th day of June, 2011