

# Senate Health and Human Services Committee

*Kirsten Koch 271-3266*

**HB 120**, relative to administration of psychotropic medications to children in foster care.

**Hearing Date:** April 14, 2021

**Time Opened:** 10:09 a.m.

**Time Closed:** 10:21 a.m.

**Members of the Committee Present:** Senators Bradley, Gray, Avard, Sherman and Whitley

**Members of the Committee Absent :** None

**Bill Analysis:** This bill requires the department of health and human services to provide medication monitoring for children in foster care and to ensure that the use of medication restraint conforms with the limitations of RSA 126-U.

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## **Sponsors:**

Rep. Marsh

Rep. P. Schmidt

Rep. Gay

Rep. Salloway

Rep. Crawford

Rep. Schapiro

Rep. Cushman

Rep. Deshaies

Sen. Sherman

Sen. Bradley

Sen. Rosenwald

Sen. Whitley

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**Who supports the bill:** There are 49 names signed in support of this bill. To view the sign in sheet, please contact the Legislative Aide for the Senate Health and Human Services Committee, Kirsten Koch, at [kirsten.koch@leg.state.nh.us](mailto:kirsten.koch@leg.state.nh.us)

**Who opposes the bill:** None

**Who is neutral on the bill:** None

## **Summary of Testimony Presented:**

### **Representative William Marsh, Carroll 8**

- Rep. Marsh introduced the bill and thanked Sen. Whitley for drafting the original version of the bill.
- Rep. Marsh said he filed this bill in response to the US Inspector General 2018 report, which reviewed Medicaid claim data of the five states with the highest instances of children in foster care taking psychotropic medications.
- Rep. Marsh said, if a state is not in conformity with the plan, the feds can withhold funding. There are treatment plans for 61% of children with no diagnosis in foster care in NH. Further, 28% children did not receive medical monitoring. Medical restraint can be used so long as medical practitioners monitor it.
- Rep. Marsh said, the state of California has successfully reduced the use of anti-psychotic medications for foster kids.

- Rep. Marsh said, in 2016, NH spent \$1 million on psychotropic medications for foster care kids. I estimate this bill will save \$783,000 in the NH Medicare budget.

### **Moira O'Neill, NH Child Advocate**

- Ms. O'Neill testified in support of this bill.
- Ms. O'Neill said, foster children do not have the consistency of one parent to manage their medication.
- Ms. O'Neill said, we worked with the New Hampshire Psychiatric Society on several suggested amendments to the original bill. The amendments were not complete, however, in that the standard of care, which calls for a full medical assessment and psychosocial assessment, was only inserted in RSA 169-B:23 governing care of children adjudicated delinquent. In order to ensure proper use of psychotropic medications with children in foster care, the same paragraph should be inserted in the proposed new paragraph in RSA 169-C:34 governing the duties of the department. On the bill as amended, that would be Page 2, after Line 4. We would recommend inserting the paragraph proposed on Page 1, lines 16-22: Prior to prescribing psychotropic medication, the prescriber shall ensure the undertaking of, and guidance from, a recent comprehensive medical assessment to rule out an underlying physical cause and a comprehensive psychosocial assessment to address psychosocial issues. The prescribing of any medication shall include consultation with the child's caregiver or legal guardian and the division for children, youth and families (DCYF) district nurse. The use of medication restraint shall be limited as provided in RSA 126-U.
- Ms. O'Neill said, the standard of care is a full medical assessment. My proposal to enhance capacity for prescribers in NH because of the shortage of psychiatry providers. We could provide resources to allow primary care physicians to prescribe psychotropic medications with guidance from psychiatric providers. This would be a resource for all children in need. Some of the children ending up in emergency rooms is because they need medication adjustments.
- Ms. O'Neill said, we support the bill with these adjustments.

*Ms. O'Neill accidentally provided her testimony on HB 120 during the hearing for HB 582. Sen. Bradley recommended for Ms. O'Neill to take any questions during the hearing for HB 120. Below are the questions for Ms. O'Neil during the hearing on HB 120:*

- Sen. Whitley asked, you mentioned a potential amendment related to the requirement of an assessment for the standard of care. Can you forward your proposed language?
  - Ms. O'Neill said, yes, it is actually in my written testimony.
- Sen. Whitley, that would make it consistent with reforms done with child protection and child behavioral health system? Would that match with an assessment?
  - Ms. O'Neill said, yes. It was added under a delinquency statute. We are finding there are a number of children in the state that have underlying medical conditions and they are receiving psychotropic medications. It is always best to do a full medical work up before prescribing psychotropic medications. This is a prompt for the standard of care—a full medical review before prescribing the medications.

## **Michael Skibbie, Disability Rights Center NH**

- Mr. Skibbie said he wanted to address the problem with the definition of medical restraint in the bill, specifically where it says, “unless when the use of medication of use to restrain would be permitted.”
- Mr. Skibbie said, restraint medication is overseen by the Attorney General, DHHS, Department of Education, and the Disability Rights Center. Incorporating the legal justification of medication restraints would relieve providers the need to notify all oversight. All medication restraint is regulated, and prescribers must notify oversight even when justifications have been met. This definition would allow a provider to conclude “because we think this was justified” not to keep records, or tell the parent, and not to create a problem with the current statutory scheme.

*Sen. Bradley said, Mr. Skibbie and Ms. O'Neill should work with Rep. Marsh to clarify the bill, delete lines, and work on any other amendments to bring back to the committee.*

KNK

Date Hearing Report completed: April 16, 2021