

CHAPTER 97
SB 216 – FINAL VERSION

03/07/12 1056s
25Apr2012... 1567h

2012 SESSION

12-2825
01/09

SENATE BILL **216**

AN ACT relative to notification of revocation of conditional discharge by the department of health and human services.

SPONSORS: Sen. Lambert, Dist 13; Sen. Barnes, Jr., Dist 17; Sen. Carson, Dist 14; Sen. D'Allesandro, Dist 20; Sen. De Blois, Dist 18; Sen. Luther, Dist 12; Sen. Odell, Dist 8; Sen. Rausch, Dist 19; Sen. Sanborn, Dist 7; Rep. Shurtleff, Merr 10; Rep. Cebrowski, Hills 18; Rep. Millham, Belk 5

COMMITTEE: Judiciary

AMENDED ANALYSIS

This bill clarifies the notice of revocation of conditional discharge by the department of health and human services.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twelve

AN ACT relative to notification of revocation of conditional discharge by the department of health and human services.

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

1 97:1 Mental Health Services System; Nonemergency Involuntary Admissions Revocation of
2 Conditional Discharge. Amend RSA 135-C:51, I-IV to read as follows:

3 I. If a psychiatrist or APRN, as defined in RSA 135-C:2, II-a, at a community mental health
4 program providing continuing treatment on an outpatient basis to a person conditionally discharged
5 pursuant to RSA 135-C:50, reasonably believes that:

6 (a) The person has violated a condition of the discharge; or

7 (b) A condition or circumstance exists which may create a potentially serious likelihood
8 of danger to the person or to others, the psychiatrist or APRN may conduct or cause to be conducted
9 by a treatment team member or an emergency service staff member, an examination of the person to
10 determine if the conditional discharge should be revoked. Before an examination may be conducted,
11 a written notice ~~[shall be prepared]~~ identifying the belief, and the reasons therefor, that a violation
12 of the conditional discharge has occurred or other circumstances or condition exists which may create
13 a potentially serious likelihood of danger to the person or to others ***shall be offered to and***
14 ***explained to the person if it can be done safely without significant possibility of bodily***
15 ***harm. If this cannot be done safely, a description of the circumstances indicating such***
16 ***risk shall be placed in the file.*** ~~[The written notice shall be offered to and read to the person prior~~
17 ~~to conducting an examination.]~~

18 II. A reasonable effort shall be made to find the person, in order to offer and ~~read~~ ***explain***
19 the notice required under paragraph I ***if it can be done safely without significant possibility of***
20 ***bodily harm. If this cannot be done safely, a description of the circumstances indicating***
21 ***such risk shall be placed in the file.*** If the person cannot be located or consent to an examination
22 cannot be obtained, the psychiatrist or other representative of the community mental health
23 program may sign a complaint. Upon issuance of such a complaint, any law enforcement officer shall
24 take custody of the person and immediately deliver him or her to the place specified in the
25 complaint.

26 III. If the psychiatrist or APRN, following the examination the psychiatrist or APRN
27 conducted or caused to be conducted of the person, finds that the person either has violated a

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1 condition of the discharge or is in such a mental condition as a result of mental illness as to create a
2 potentially serious likelihood of danger to himself or herself or to others, he or she may temporarily
3 revoke the conditional discharge. If the conditional discharge is temporarily revoked, the
4 psychiatrist, or APRN, or designee, shall prepare, offer to ~~[and read]~~ **and explain** to the person a
5 written notice, **if it can be done safely without significant possibility of bodily harm**, giving
6 the reasons for the revocation and ~~[the psychiatrist or APRN shall]~~ **to** identify the receiving facility
7 to which the person is to be delivered. **If this cannot be done safely, a description of the**
8 **circumstances indicating such risk shall be placed in the file.**

9 IV. A law enforcement officer shall take custody of the person whose conditional discharge
10 was temporarily revoked under paragraph III and deliver him or her, together with a copy of the
11 notice and the reasons for the temporary revocation, to the receiving facility identified by the
12 psychiatrist **or APRN**, where he or she shall be personally examined by the administrator of the
13 facility or designee and the reasons for temporary revocation of the discharge shall be reviewed.
14 Following such examination and review, if the administrator of the facility or designee finds that the
15 person conditionally discharged has violated a condition of the discharge or is in such a mental
16 condition as a result of mental illness as to create a potentially serious likelihood of danger to
17 himself or herself or to others, he or she may revoke absolutely the conditional discharge. The
18 administrator of the facility, or designee, shall prepare, offer to ~~[and read]~~ **and explain** to the
19 person, **if it can be done safely without significant possibility of bodily harm**, a written notice
20 of the reasons for the absolute revocation. **If this cannot be done safely, a description of the**
21 **circumstances indicating such risk shall be placed in the file.** The person whose conditional
22 discharge has been absolutely revoked shall be subject to the terms and conditions of the order of
23 involuntary admission made pursuant to RSA 135-C:34-54 from which conditional discharge was
24 granted as if the conditional discharge had not been granted.

25 **IV-a. All explanations provided pursuant to this section shall be sufficiently**
26 **detailed and complete to inform the person of the reasons for the revocation and that he or**
27 **she has a right to a hearing.**

28 97:2 Effective Date. This act shall take effect upon its passage.

29 Approved: May 29, 2012

30 Effective Date: May 29, 2012