



NAMI
National Alliance on Mental Illness

NAMI New Hampshire

May 8, 2017

Honorable Chairman Jeb Bradley
Senate Health and Human Services Committee
Room 101 Legislative Office Building
33 N. State Street
Concord, NH 03301

Dear Chairman Bradley and members of the Committee,

Thank you for the opportunity to testify today. My name is Kenneth Norton and I serve as Executive Director of NAMI NH, the National Alliance On Mental Illness. I also have a family member with a serious mental illness and co-occurring substance use disorder. During my career I spent almost 17 years working in community mental health and during much of that time I served as the liaison between New Hampshire Hospital and Genesis Behavioral Health tasked with coordinating admissions and discharges and for several years I led the emergency services team for Belknap and Southern Grafton County covering Lakes Region Hospital in Laconia and Speare Hospital in Plymouth. During that time I have been directly involved with many involuntary admissions.

In regards to the amendment to HB 536, I am focusing my testimony on the first section of the bill dealing with probable cause hearings within 72 hours of an Involuntary Emergency Admission petition. Over the past four years NAMI NH has publicly spoken out against the practice of detaining people for an involuntary emergency admission without affording them their due process rights. It is yet another example of how we as a society devalue people with mental illness. It is difficult to imagine anyone being detained for a criminal or any other matter without a proper hearing in a timely manner. In recent years, this form of incarceration without a determination of probable cause has gone from days to weeks, in some recent instances people have gone more than 3 weeks without access to legal counsel or a probable cause hearing.

Last week NAMI NH met with Attorney General MacDonald, and in the past have met with Attorney General Foster and Attorney General Delaney to raise our concerns about the due process rights of these individuals. It was our belief that the current interpretation of the law that the 72 hour clock starts ticking upon admission rather than upon detention is not consistent with what the legislative intent of the law was. However, NAMI NH has consistently maintained that our concern in raising the due process issue is that people in a mental health crisis receive timely access to treatment and the worst thing that could happen would be that they were released on a legal technicality.

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NAMI NH strongly supports the concept of this amendment, but we have serious concern over how it will be practically applied. For instance, we don't know if the goal would be to have all the arraignments done by tele-video or if all the hospitals in the state have video conferencing technology that is compatible with the Circuit Court. As another possible alternative, we would not be supportive of transporting people, in restraints, to their local courthouse and then brought back to the Emergency Department – in addition to the cost of transporting, the potential for trauma and breaching the confidentiality/privacy of someone being detained in our mind would over ride providing them with a timely hearing.

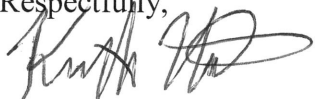
If it is possible to have attorneys meet with the patient in advance, and if it is possible to hold the hearings at the Hospital or Emergency Department, then another host of problems emerges. If probable cause is upheld after 72 hour hearing, then the person can be held for up to 10 days. The average length of stay at New Hampshire Hospital is less than 10 days – because most people consent and begin receiving treatment immediately upon admission. This means most do not end up having a probate court petition submitted which is required if they are to be held for more than 10 days. The problem here is now two fold. First if they are being held in an Emergency Department and no effective treatment taking place during that time, the number of people who will require a probate commitment is likely to increase enormously. Secondly, there will be no clear process in place for who will file the probate court petition or even what court it should be filed in. Currently this is all handled by New Hampshire Hospital staff who are familiar with the process and prepared to see it through for the individuals they petition for a probate commitment for.

NAMI NH would whole heartedly support this amendment if the state was making clear its intention to insure the capacity at Designated Receiving Facilities to follow the current law and upon completion of the certificate immediately transport the individual to the designated receiving facility.

If the committee does decide to move this amendment forward we strongly recommend that the effective date be far enough in the future to insure the proper procedures and protocols have been identified, and the resources necessary to implement it.

Thank you for the opportunity to testify, I am happy to answer any questions which you have.

Respectfully,

A handwritten signature in black ink, appearing to read "Kenneth Norton", written over a horizontal line.

Kenneth Norton LICSW
Executive Director