



**Testimony of the New Hampshire Hospital Association on
He-M 609 Conditional Discharge Rules**

Department of Health and Human Services

December 15, 2021

On behalf of our New Hampshire Hospital Association (NHHA) membership which represents all 26 of our community hospitals and all of our specialty hospitals, I am presenting written testimony relative to He-M 609 Conditional Discharge administrative rules. This testimony also represents comments received from community mental health centers and advocates.

Individuals who were involuntarily admitted to New Hampshire Hospital or Designated Receiving Facilities (DRFs) may receive conditional discharge under specific provisions that they comply with community-based treatment or may be subject to readmission. These rules govern those conditions, revocations and procedures for evaluations. Overall, the draft He-M 609 administrative rules presented as "Initial Proposal 10/1/21" provide a good framework for supporting these individuals and providing the proper structure for providers that support them.

We agree with:

- the addition of Physician Assistants
- the addition of Transitional Housing Program Services and Treatment Team Member
- Inclusion of specific language related to violated conditions (He-M 609.06)
- Inclusion of language related to providing written notice - RSA 135-C:51,I(b) and with examining the person – "so long as it can be done safely, without significant possibility of bodily harm. If this cannot be done safely, a description of circumstances indicating such risk shall be placed in the file".
- Inclusion of language in RSA 135-C:51,I (b) that provides a solid safety net for treatment providers: "...the person's mental status has deteriorated from the person's usual mental status, such that the person is exhibiting and exacerbation of psychiatric symptoms likelihood of stabilizing and reversing such deterioration would be substantially improved if treatment were to be given".
- Inclusion of language in He-M 609.07 (g) allows treatment providers to address non "terms or conditions" of the conditional discharge that can significantly impact an individual's ability to safely return to a less restrictive environment in a safe and healthy manner

There are a few sections of He-M 609.06 Revocation of Conditional Discharge that we have suggested edits:

He-M 609.06 (b)(1) a: The highlighted phrase adds nothing of substance to the proposed rule and adds significant confusion. There is no statutory or case law definition of the phrase “providing services **related to the state’s mental health system.**” Instead, we recommend:

“Failing or refusing to take medications prescribed by a psychiatrist, APRN, PA, or emergency room doctor **physician, APRN, or PA** to treat his or her psychiatric illness, provided that the psychiatrist, APRN, PA, or emergency room doctor ~~is providing services related to the state’s mental health system,~~ **physician, APRN or PA is on the list of physicians, APRNs and PAs as defined in RSA 135-C:2, II-a, maintained by the commissioner pursuant to RSA 135-C:28 who are approved by either a designated receiving facility or a community mental health program approved by the commissioner** whether on behalf of a CMHP, THPS, NH Hospital, DRF, or a hospital emergency room receiving a patient who is on a conditional discharge.

He-M 609.06 (b)(1)(b): we believe that a reference to reasonable attempts of the CMHP/THPS to work with the person and a reference to peer supports should be included in this section as follows:

“Failing or refusing to attend scheduled appointments, which interferes with the responsibility of the CMHP/THPS to provide monitoring and/or treatment **so long as the CMHP/THPS have made a good faith effort to accommodate the person’s schedule, preference of visit times and/or clinician. This shall not apply to peer support which must be voluntary;**

He-M 609.06 (a) and (b): We suggest inserting new language between He-M 609.06 (a) and (b) to allow for communications before an examination is needed to determine revocation. We believe there needs to be an ability for providers to consult with New Hampshire Hospital or the DRF that issued the person’s conditional discharge before conditional discharge is revoked. Often New Hampshire Hospital or the DRF have a relationship with that person and could be of assistance in reaching the person, requesting compliance or emphasizing the consequences of non-compliance. This communication could be vital in keeping this person compliant with the conditional discharge requirements and not have to automatically revoke it, thus keeping this person in the community.

We appreciate the opportunity to share our thoughts with you on these proposed rules. We’d be happy to work with DHHS on reviewing and clarifying any of the items raised in our testimony. Thank you.

Submitted by:



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