

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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SENATE BILL 437\*  
Health Care Committee Substitute Adopted 4/14/11

Short Title: Enact First Evaluation Program.

(Public)

Sponsors:

Referred to:

March 29, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO AUTHORIZE THE SECRETARY OF HEALTH AND HUMAN SERVICES TO  
3 ALLOW CERTAIN CERTIFIED PROVIDERS TO CONDUCT INITIAL  
4 (FIRST-LEVEL) EXAMINATIONS FOR INVOLUNTARY COMMITMENT OF  
5 INDIVIDUALS WITH MENTAL ILLNESS, IN A MANNER CONSISTENT WITH THE  
6 FIRST EVALUATION PILOT PROGRAM.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** Part 7 of Article 5 of Chapter 122C of the General Statutes is  
9 amended by adding a new section to read:

10 "**§ 122C-263A. Secretary's authority to waive requirement of first examination by**  
11 **physician or eligible psychologist; training of certified providers performing**  
12 **first examinations.**

13 (a) The Secretary of Health and Human Services may, upon request of an LME, waive  
14 the requirements of G.S. 122C-261 through G.S. 122C-263 and G.S. 122C-281 through  
15 G.S. 122C-283 pertaining to initial (first-level) examinations by a physician or eligible  
16 psychologist of individuals meeting the criteria of G.S. 122C-261(a) or G.S. 122C-281(a), as  
17 applicable, as follows:

18 (1) The Secretary has received a request from an LME to substitute for a  
19 physician or eligible psychologist, a licensed clinical social worker, a  
20 master's level psychiatric nurse, a licensed professional counselor, or a  
21 master's level certified clinical addictions specialist in accordance with  
22 subdivision (8) of this subsection to conduct the initial (first-level)  
23 examinations of individuals meeting the criteria of G.S. 122C-261(a) or  
24 G.S. 122C-281(a). In making this type of request, the LME shall specifically  
25 describe all of the following:

- 26 a. How the purpose of the statutory requirement would be better served  
27 by waiving the requirement and substituting the proposed change  
28 under the waiver.  
29 b. How the waiver will enable the LME to improve the delivery or  
30 management of mental health, developmental disabilities, and  
31 substance abuse services.  
32 c. How the health, safety, and welfare of individuals will continue to be  
33 at least as well protected under the waiver as under the statutory  
34 requirement.

35 (2) The Secretary shall review the request and may approve it upon finding all  
36 of the following:

- 37 a. The request meets the requirements of this section.



- 1                   b.       The request furthers the purposes of State policy under G.S. 122C-2  
2                               and mental health, developmental disabilities, and substance abuse  
3                               services reform.
- 4                   c.       The request improves the delivery of mental health, developmental  
5                               disabilities, and substance abuse services in the counties affected by  
6                               the waiver and also protects the health, safety, and welfare of  
7                               individuals receiving these services.
- 8                   (3)       The Secretary shall evaluate the effectiveness, quality, and efficiency of  
9                               mental health, developmental disabilities, and substance abuse services and  
10                              protection of health, safety, and welfare under the waiver.
- 11                   (4)       A waiver granted by the Secretary under this section shall be in effect for a  
12                              period of three years.
- 13                   (5)       In no event shall the substitution of a licensed clinical social worker,  
14                              master's level psychiatric nurse, licensed professional counselor, or master's  
15                              level certified clinical addictions specialist under a waiver granted under this  
16                              section be construed as authorization to expand the scope of practice of the  
17                              licensed clinical social worker, the master's level psychiatric nurse, the  
18                              licensed professional counselor, or the master's level certified clinical  
19                              addictions specialist.
- 20                   (6)       The Department shall assure that staff performing the duties have  
21                              successfully completed the Department's standardized training program and  
22                              examination and are properly trained and privileged to perform the functions  
23                              identified in the waiver.
- 24                   (7)       The LME shall assure that a physician is available at all times to provide  
25                              backup support to include telephone consultation and face-to-face  
26                              evaluation, if necessary.
- 27                   (8)       A master's level certified clinical addiction specialist shall only be  
28                              authorized to conduct the initial examination of individuals meeting the  
29                              criteria of G.S. 122C-281(a).
- 30                   (b)       The Division of Mental Health, Developmental Disabilities, and Substance Abuse  
31                              Services shall expand its standardized certification training program to include refresher  
32                              training for all certified providers performing first examinations pursuant to subsection (a) of  
33                              this section."

34                   **SECTION 2.** This act becomes effective October 1, 2011.