WEST VIRGINIA CODE CHAPTER 27 ARTICLE 1

WV Legislature

§27-1-1. Definitions.

The following words and phrases when used in this chapter shall, for the purposes of this chapter, have the meanings respectively ascribed to them in this article, unless the context clearly requires a different meaning.

WV Legislature

§27-1-2. Mental illness.

"Mental illness" means a manifestation in a person of significantly impaired capacity to maintain acceptable levels of functioning in the areas of intellect, emotion and physical well-being.

WV Legislature

§27-1-3. Intellectual disability.

"Intellectual disability" means significantly subaverage intellectual functioning which manifests itself in a person during his or her developmental period and which is characterized by his or her inadequacy in adaptive behavior. Notwithstanding any provision to the contrary, if any service provision or reimbursement is affected by the changes in terminology adopted in the 2010 First Extraordinary Session of the Legislature, the terms "intellectual disability" or "individuals with an intellectual disability" shall assume their previous terminology. It is not the intent of the Legislature to expand the class of individuals affected by this terminology change.

WV Legislature

§27-1-4. Inebriate.

An "inebriate" person is anyone over the age of eighteen years who is incapable or unfit to properly conduct himself or herself, or his or her affairs, or is dangerous to himself or herself or others, by reason of periodical, frequent or constant drunkenness, induced either by the use of alcoholic or other liquors, or of opium, morphine, or other narcotic or intoxicating or stupefying substance.

WV Legislature

§27-1-5. Physician.

A "physician" is a person licensed under the laws of this state to practice medicine or a medical officer of the government of the United States while in this state in the performance of his official duties.

WV Legislature

§27-1-6. State hospital.

"State hospital" means any hospital, center or institution, or part of any hospital, center or institution, established, maintained and operated by the state, or by the state in conjunction with a political subdivision of the state, to provide inpatient or outpatient care and treatment for the mentally ill, intellectually disabled or addicted. The terms "hospital" and "state hospital" exclude correctional and regional jail facilities.

WV Legislature

§27-1-7. Administrator and clinical director.

(a) The administrator of a state-operated treatment facility is its chief executive officer and has the authority to manage and administer the financial, business and personnel affairs of such facility. All other persons employed at the state-operated treatment facility are under the jurisdiction and authority of the administrator of the treatment facility who need not be a physician.

(b) The clinical director has the responsibility for decisions involving clinical and medical treatment of patients in a state-operated mental health facility. The clinical director must be a physician duly licensed to practice medicine in this state who has completed training in an accredited program of post-graduate education in psychiatry.

(c) In any facility designated by the Secretary of the Department of Health Facilities as a facility for individuals with an intellectual disability in which programs and services are designed primarily to provide education, training and rehabilitation rather than medical or psychiatric treatment, the duties and responsibilities, other than those directly related to medical treatment services, assigned to the clinical director by this section or elsewhere in this chapter, are assigned to and become the responsibility of the administrator of that facility, or of a person with expertise in the field of intellectual disability, who need not be a physician, designated by the administrator.

WV Legislature

§27-1-8. Resident of state and county.

A "resident of the state" is any person who has had an established residency in this state for at least one year, and a "resident of the county" is any person who has had an established residency in a county for at least sixty days.

WV Legislature

§27-1-9. Mental health facility.

"Mental health facility" means any inpatient, residential or outpatient facility for the care and treatment of the mentally ill, intellectually disabled or addicted which is operated, or licensed to operate, by the Office of Health Facility Licensure and Certification and includes state hospitals as defined in §27-1-6 of this code. The term also includes veterans administration hospitals, but does not include any regional jail, juvenile or adult correctional facility, or juvenile detention facility.

WV Legislature

§27-1-10. Psychologists and psychiatrists.

(a) For the purposes of this chapter, "psychologist" means any person licensed under the laws of this state to engage in the practice of psychology, or any other psychologist not a resident of this state who engages in the practice of psychology in this state and who holds a license or certificate to engage in the practice of psychology issued by another state with licensing or certification requirements comparable to the licensing requirements of this state, as may be determined by the state board of examiners of psychologists.

(b) For purposes of this chapter, "psychiatrist" means a physician licensed under the laws of this state to practice medicine who has completed training in an accredited program of post-graduate education in psychiatry.

WV Legislature

§27-1-11. Addiction.

(a) As used in this chapter, “addiction” or substance use disorder means a maladaptive pattern of substance use leading to clinically significant impairment or distress as manifested by one or more of the following occurring within 30 days prior to the filing of the petition:

(1) Recurrent substance use resulting in a failure to fulfill major role obligations at work, school, or home, including, but not limited to, repeated absences or poor work performance related to substance use; substance-related absences, suspensions, or expulsions from school; or neglect of children or household;

(2) Recurrent use in situations in which it is physically hazardous, including, but not limited to, driving while intoxicated or operating a machine when impaired by substance use;

(3) Recurrent substance-related legal problems; or

(4) Continued use despite knowledge or having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of the substance.

(b) As used in this section, “substance” means alcohol, controlled substances as defined in sections §60A-2-204, §60A-2-206, §60A-2-208, and §60A-2-210 of this code, or anything consumed for its psychoactive effect whether or not designed for human consumption.

WV Legislature

§27-1-12. Likely to cause serious harm.

(a) "Likely to cause serious harm" means an individual is exhibiting behaviors consistent with a medically recognized mental disorder or addiction, excluding, however, disorders that are manifested only through antisocial or illegal behavior and as a result of the mental disorder or addiction:

(1) The individual has inflicted or attempted to inflict bodily harm on another;

(2) The individual, by threat or action, has placed others in reasonable fear of physical harm to themselves;

(3) The individual, by action or inaction, presents a danger to herself or others in his or her care;

(4) The individual has threatened or attempted suicide or serious bodily harm to himself or herself; or

(5) The individual is behaving in a manner as to indicate that he or she is unable, without supervision and the assistance of others, to satisfy his or her need for nourishment, medical care, shelter or self-protection and safety so that there is a substantial likelihood that death, serious bodily injury, serious physical debilitation, serious mental debilitation or life-threatening disease will ensue unless adequate treatment is afforded.

(b) In making the "likely to cause serious harm" determination, judicial, medical, psychological and other evaluators and decisionmakers should utilize all available information, including psychosocial, medical, hospitalization and psychiatric information and including the circumstances of any previous commitments or convalescent or conditional releases that are relevant to a current situation, in addition to the individual's current overt behavior. The rules of evidence shall be followed in making the "likely to cause serious harm" determination except that hearsay evidence not admissible thereunder may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

WVLegislature

§27-1-13. Chief medical officer.

"Chief medical officer" means the physician responsible for medical programs within a mental health facility and shall include the clinical director of a state hospital.

WV Legislature

§27-1-14. Detained or taken into custody.

"Detained or taken into custody" where used in this chapter shall permit detention for custody in a county facility which may be in the same building as the county jail if the said county facility:

(a) Meets the standards which the Department of Health shall prescribe; and

(b) Is approved for such use by the Department of Health; and

(c) Is inspected annually by the Department of Health.

WV Legislature

§27-1-15. Computation of time.

The provisions of section one, article two, chapter two of this code shall apply to the time fixed for doing any act under this chapter.

WV Legislature

§27-1-16. Incapacitated.

"Incapacitated" means a level of intoxication at which an individual is incapable of physical or mental control of himself thus rendering him dangerous to himself or others or unable to protect himself from hazard.

WV Legislature

§27-1-17. Judicial officer.

"Judicial officer" in the context of the provisions of this and other chapters of this code dealing with disposition of a charge of public intoxication, means a municipal judge, a magistrate or any judge of a court of record in this state.

WV Legislature