WEST VIRGINIA CODE CHAPTER 27 ARTICLE 4

WV Legislature

§27-4-1. Authority to receive voluntary patients.

(a) The chief medical officer of a mental health facility, subject to the availability of suitable accommodations and to the rules promulgated by the board of health, shall admit for diagnosis, care and treatment any individual:

(1) Eighteen years of age or older who is mentally ill, intellectually disabled or addicted or who has manifested symptoms of mental illness, intellectual disability or addiction and who makes application for hospitalization; or

(2) Under eighteen years of age who is mentally ill, intellectually disabled or addicted or who has manifested symptoms of mental illness, intellectual disability or addiction and where there is an application for hospitalization, either made in person at the time of admission or by a notarized written application submitted by facsimile, e-mail or in person prior to, or at the time of, admission, on his or her behalf as follows:

(A) By the parents of such person;

(B) If only one parent is living, then by such parent;

(C) If the parents are living separate and apart, then by the parent who has the custody of such person; or

(D) If there is a guardian who has legal custody of such person, then by such guardian.

(E) If the subject person under eighteen years of age is an emancipated minor, the admission of that person as a voluntary patient shall be conditioned upon the consent of the patient.

(F) If the application for the subject person under eighteen years of age does not satisfy one of paragraphs (A) through (E) of this subdivision, the provisions of article five of this chapter shall be followed with respect to any hospitalization.

(b) For any application for hospitalization made pursuant to subdivision (2) of subsection (a) of this section, the person making the application shall transport the minor to the mental health facility, except as provided in this subsection. If the minor is violent or combative or the parent or guardian faces other circumstances that make the parent or guardian unable to transport the minor to the mental health facility, the parent or guardian may file an affidavit with the circuit court of the county in which the minor resides or of the county in which the minor may be found. The parent or guardian shall give information and state facts in the affidavit as may be required by the form provided for this purpose by the Supreme Court of Appeals. Upon ex parte review of the affidavit, a mental hygiene commissioner or circuit court judge, or when none are available the magistrate designated pursuant to article five of this chapter, may determine that the parent or guardian is unable to transport the minor for voluntary hospitalization and, if such a determination is made, shall enter an order requiring the sheriff of that county to transport the minor to the mental health facility.

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(c) No person under eighteen years of age may be admitted under this section to any state hospital unless the person has first been reviewed and evaluated by a local mental health facility and recommended for admission.

(d) If the candidate for voluntary admission is a minor who is fourteen years of age or older, the admitting health care facility shall determine if the minor consents to or objects to his or her admission to the facility. If the parent or guardian who requested the minor's admission under this section revokes his or her consent at any time, or if the minor fourteen years of age or older objects at any time to his or her further treatment, the minor shall be discharged within ninety-six hours to the custody of the consenting parent or guardian, unless the chief medical officer of the mental health facility files a petition for involuntary hospitalization, pursuant to the provisions of section three of this article, or the minor's continued hospitalization is authorized as an involuntary hospitalization pursuant to the provisions of article five of this chapter: Provided, That if the ninety-six hour time period would result in the minor being discharged and released on a Saturday, a Sunday or a holiday on which the court is closed, the period of time in which the patient shall be released by the facility shall be extended until the next day which is not a Saturday, Sunday or legal holiday on which the court is lawfully closed.

(e) Nothing in this section may be construed to obligate the State of West Virginia for costs of voluntary hospitalizations permitted by the provisions of this section.

(f) For the purposes of this section, all mental health facilities in this state shall make a blank copy of their application for admission immediately available to any person or entity who requests the application. The application is "immediately available" if it is promptly sent by facsimile or e-mail to the requesting person or entity, or available through other immediate electronic means, such as posting the blank application on the facility's public website.

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§27-4-2. Release of voluntary patients.

The chief medical officer of a mental health facility shall release any voluntary patient who, in his opinion, has recovered or whose hospitalization is no longer advisable but he shall make every effort to assure that any further supportive services required to meet the patient's need upon his release will be provided.

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§27-4-3. Right to release on application.

A voluntary patient who requests his or her release or whose release is requested in writing by his or her parents, parent, guardian, spouse or adult next of kin shall be released immediately except that:

(a) If the patient was admitted on his or her own application, and request for release is made by a person other than the patient, release shall be conditioned upon the agreement of the patient thereto;

(b) If the patient is under eighteen years of age, his or her release prior to becoming eighteen years of age may be conditioned upon the consent of the person or persons who applied for his or her admission; or

(c) If, within ninety-six hours of the receipt of the request, the chief medical officer of the mental health facility in which the patient is hospitalized files with the clerk of the circuit court or mental hygiene commissioner of the county where the facility is situated an application for involuntary hospitalization as provided in section four, article five of this chapter, release may be postponed for twenty days pending a finding in accordance with the legal proceedings prescribed therein.

Legal proceedings for involuntary hospitalization shall not be commenced with respect to a voluntary patient unless release of the patient has been requested by him or her or the individual or individuals who applied for his or her admission.

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§27-4-4. Admission and treatment of voluntary patients; statement of rights; consent for treatment.

(a) No person shall be admitted as an inpatient into a mental health facility as a voluntary patient until such person has been told and has received a written statement containing in bold print a statement that once he voluntarily admits himself into such facility, his release may not be voluntary, that the facility may seek to involuntarily commit him and may hold him against his will for thirty days pending a hearing and indefinitely after the hearing if he is committed, and that such statement shall inform the individual that he may request release at any time. Further, the individual shall be advised in writing of his rights upon admission as an inpatient to a mental health facility, including, but not limited to, those rights afforded pursuant to section nine, article five of this chapter. A copy of the statement shall be filed in the individual's permanent records and shall contain the name of the person who made the oral and written disclosure.

(b) No voluntary inpatient shall be subjected to any course of treatment without such patient's written consent. Such consent shall be revocable at any time and shall not be valid for a period exceeding six months.

(c) One person in every mental health facility shall be designated as the voluntary patient coordinator. Such coordinator, or his designee while the coordinator is not on duty, shall be responsible for the disclosures required by this section and for any and all discussions with voluntary patients relative to release.

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