WEST VIRGINIA CODE: §27-5-2A

§27-5-2a. Process for involuntary hospitalization.

(a) As used in this section:

"Addiction" has the same meaning as the term is defined in §27-1-11 of this code;

"Authorized staff physician" means a physician, authorized pursuant to the provisions of §30-3-1 *et seq*. or §30-14-1 *et seq*. of this code, who is a bona fide member of the hospital's medical staff;

"Hospital" means a facility licensed pursuant to the provisions of §16B-3-1 *et seq*. of this code, and any acute care facility operated by the state government that primarily provides inpatient diagnostic, treatment, or rehabilitative services to injured, disabled, or sick individuals under the supervision of physicians; and

"Psychiatric emergency" means an incident during which an individual loses control and behaves in a manner that poses substantial likelihood of physical harm to himself, herself, or others.

(b)(1) An authorized staff physician may order the involuntary hospitalization of a patient or an individual who is present at, or presented at, a hospital emergency department in need of treatment, if the authorized staff physician believes, following an examination of the individual, that the individual is addicted or is mentally ill and, because of his or her addiction or mental illness, is likely to cause serious harm to himself, herself, or to others if allowed to remain at liberty. The authorized staff physician shall sign a statement attesting to his or her decision that the patient presents a harm to himself, herself, or others and needs to be held involuntarily for up to 72 hours. The West Virginia Supreme Court of Appeals is requested to generate a form for the statement to be signed by the authorized staff physician or other person authorized by the hospital and provided to the individual.

(2) If, in the opinion of the authorized staff physician, the patient requires involuntary treatment longer than 72 hours, then no later than 72 hours after the involuntary hospitalization pursuant to this section, the authorized staff physician or designated employee shall file a mental hygiene petition certifying that the patient is addicted or is mentally ill and, because of the addiction or mental illness, is likely to cause serious harm to himself, herself, or to other individuals if allowed to remain at liberty. The authorized staff physician shall also certify the same in the individual's health records. Upon receipt of this filing, the mental hygiene commissioner, a magistrate, or a circuit judge shall conduct a hearing pursuant to §27-5-2 of this code.

(3) An individual who is involuntarily hospitalized pursuant to this section shall be released from the hospital no later than 72 hours, unless further detained under the applicable

WV Legislature

provisions of this article.

(c) An individual may receive treatment:

(1) During a period of involuntary hospitalization authorized by this section;

(2) Upon his or her consent; or

(3) In the event of a medical or psychiatric emergency.

The hospital or authorized staff physician shall exercise due diligence in determining the individual's existing medical needs and provide treatment the individual requires, including previously prescribed medications.

(d) Each hospital or authorized staff physician which provides services under this section shall be paid for the services at the same rate the hospital or authorized staff physician negotiates with the patient's insurer. If the patient is uninsured, the hospital or authorized staff physician may file a claim for payment with the West Virginia Legislative Claims Commission in accordance with §14-2-1 *et seq.* of this code.

(e) Authorized staff physicians and hospitals and their employees carrying out duties or rendering professional opinions as provided in this section are free from liability for their actions, if the actions are performed in good faith, within the scope of their professional duties, and in a manner consistent with the standard of care.

(f) The West Virginia Supreme Court of Appeals is requested to:

(1) Provide each hospital with a list of names, contact information, and on-call information of the mental hygiene commissioners, magistrates, and circuit judges to address mental hygiene petitions in the county where the hospital is located; and

(2) Update the list regularly.

(g) If a mental hygiene commissioner, county magistrate, or circuit judge does not respond to a request within 24 hours, a report shall be filed to the West Virginia Supreme Court of Appeals.

(h) An action taken against an individual pursuant to this section may not be construed to be an adjudication of the individual, and action taken pursuant to this section may not be construed to satisfy the requirements of §61-7-7(a)(4) of this code.

WV Legislature