

2017 Regular Session

HOUSE BILL NO. 341

BY REPRESENTATIVE DUSTIN MILLER

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

HEALTH/BEHAVIORAL: Amends laws relative to behavioral health and mental health to provide for current practice and appropriate terminology

1 AN ACT

2 To amend and reenact R.S. 17:1607, the heading of Title 28 of the Louisiana Revised

3 Statutes of 1950, the heading of Chapter 1 of Title 28 of the Louisiana Revised

4 Statutes of 1950, R.S. 28:1, 2(1), (7), (9), (10), (14), (17), (20), (21), (26), (29), and

5 (32)(a) and (b), 3, the heading of Part I-A of Chapter 1 of Title 28 of the Louisiana

6 Revised Statutes of 1950, R.S. 28:11, 12, 13(introductory paragraph), (1), and (3)

7 through (5), 14, 15(A)(introductory paragraph), (3), (9), and (B), the heading of Part

8 II of Chapter 1 of Title 28 of the Louisiana Revised Statutes of 1950, R.S. 28:21(A)

9 and (B), 21.1, 22(B)(introductory paragraph) and (C)(1), 22.5, 22.7(A), 22.9 through

10 25, 25.1(A), (C)(1)(a)(introductory paragraph) and (v), (b), (c), (2)(a)(iv), and (D),

11 25.2, the heading of Part III of Chapter 1 of Title 28 of the Louisiana Revised

12 Statutes of 1950, R.S. 28:50(1), (3), (4), and (6), 51(C), 51.1(A)(1), 52(A) through

13 (C), (G)(2)(a), and (H)(2), 52.2, 52.3, 52.4(A) through (C), 53(A), (B)(1) and (2)(b)

14 and (d)(introductory paragraph), (G)(2) and (6), (J), (K)(1), and (L)(1) and (3),

15 53.2(A)(introductory paragraph) and (1), (B), (C)(3), and (F), 54(A) and

16 (D)(1)(introductory paragraph) and (a) and (3), 55(B), (E)(1) and (3) through (5), (F),

17 (G), (I), and (J), 56(A)(1)(a) and (2)(b), (B), (C), and (G), 59(A), (C), and (D), 62,

18 64(F), 67(1) and (3), 69(A)(1), 70(A), (B)(introductory paragraph) and (1), and

19 (E)(2)(f), 71(B), (C), (E), and (F), 72(A), 73, 91 through 93, 94(A), 96(A) through

1 (C) and (E) through (H), 96.1(A), (B), and (D) through (F), 97 through 100, 101  
2 through 145, 146(A), 147, the heading of Part VI of Chapter 1 of Title 28 of the  
3 Louisiana Revised Statutes of 1950, R.S. 28:171(C)(4)(a) and (D)(5),  
4 171.1(introductory paragraph) and (5) through (8), 172 through 184, 185(A), 200  
5 through 202, 215.2(1)(introductory paragraph) and (2), 215.3(A) and (B), 215.4(A),  
6 the heading of Part X of Chapter 1 of Title 28 of the Louisiana Revised Statutes of  
7 1950, R.S. 28:221(1) through (6), (8), (9), and (11) through (13), 222 through 225,  
8 227(A), (C), and (E), 228, 229(A) and (C), 230(A)(introductory paragraph) and  
9 (2)(a) and (d)(i), (B), and (C), 232, 233(2), 234(introductory paragraph) and (2), the  
10 heading of Chapter 5 of Title 28 of the Louisiana Revised Statutes of 1950, R.S.  
11 28:475, 476, 477(1) and (3)(a)(introductory paragraph) and (b), 478(A), the heading  
12 of Chapter 11 of Title 28 of the Louisiana Revised Statutes of 1950, R.S. 28:771,  
13 772(A)(1) and (2)(c) and (B), the heading of Chapter 15 of Title 28 of the Louisiana  
14 Revised Statutes of 1950, R.S. 28:841(A), 911(1), 913(A)(2) and (3), 915(A)(3), and  
15 931(B)(2), R.S. 36:258(C) and 259(C)(10) and (16), R.S.  
16 40:1237.1(A)(9)(a)(ii)(introductory paragraph) and 2142(A), Code of Criminal  
17 Procedure Articles 648(A)(1) and (B)(1), 657, 657.1(A)(4), and 657.2(A), and  
18 Children's Code Article 1404(9), to enact R.S. 28:2(33) through (39), and to repeal  
19 R.S. 28:2(11), 22.4, 22.10, 52.1, 95, 100.1, 182, Chapter 6 of Title 28 of the  
20 Louisiana Revised Statutes of 1950, comprised of R.S. 28:501 through 506, and  
21 Chapter 7 of Title 28 of the Louisiana Revised Statutes of 1950, comprised of R.S.  
22 28:561, relative to mental health and behavioral health laws; to revise terminology  
23 and definitions of terms relating to mental health and behavioral health; to provide  
24 relative to healthcare services for persons with mental illness and substance-related  
25 and addictive disorders; to provide for care and treatment of persons with behavioral  
26 health needs; to provide relative to facilities where such care is delivered; to provide  
27 for the administration of state psychiatric hospitals; to make technical changes and  
28 corrections in laws pertaining to mental health and behavioral health; and to provide  
29 for related matters.

1 Be it enacted by the Legislature of Louisiana:

2 Section 1. R.S. 17:1607 is hereby amended and reenacted to read as follows:

3 §1607. Medical scholarship; recipient to serve as physician at the forensic unit of  
4 ~~East Louisiana State Hospital~~ Eastern Louisiana Mental Health System

5 Upon the recommendation of the director of the forensic unit of the ~~East~~  
6 ~~Louisiana State Hospital~~ Eastern Louisiana Mental Health System at Jackson and  
7 subsequent approval by the medical school of the Louisiana State University and  
8 Agricultural and Mechanical College the board of supervisors of the Louisiana State  
9 University and Agricultural and Mechanical College shall award annually a four year  
10 scholarship to the medical school of the Louisiana State University and Agricultural  
11 and Mechanical College. The recipient of any such scholarship may attend the  
12 medical school without the necessity of paying tuition, matriculation, registration,  
13 laboratory, athletic, medical or other special fees, and may receive a stipend from the  
14 board of supervisors. No person shall be awarded any such scholarship unless such  
15 person agrees to serve as a physician at the forensic unit of the ~~East Louisiana State~~  
16 ~~Hospital~~ Eastern Louisiana Mental Health System at Jackson at the rate of pay  
17 provided in appropriate civil service pay schedules for a period of two years after  
18 such person is awarded a certificate to practice medicine in the state of Louisiana.  
19 Any person awarded such a scholarship shall pay back to the state of Louisiana all  
20 funds received from such a scholarship if he fails to complete this required two year  
21 service or a pro rata percentage of funds received if he completes less than two years  
22 service.

23 Section 2. The heading of Title 28 of the Louisiana Revised Statutes of 1950, the  
24 heading of Chapter 1 of Title 28 of the Louisiana Revised Statutes of 1950, R.S. 28:1, 2(1),  
25 (7), (9), (10), (14), (17), (20), (21), (26), (29), and (32)(a) and (b), 3, the heading of Part I-A  
26 of Chapter 1 of Title 28 of the Louisiana Revised Statutes of 1950, R.S. 28:11, 12,  
27 13(introductory paragraph), (1), and (3) through (5), 14, 15(A)(introductory paragraph), (3),  
28 (9), and (B), the heading of Part II of Chapter 1 of Title 28 of the Louisiana Revised Statutes  
29 of 1950, R.S. 28:21(A) and (B), 21.1, 22(B)(introductory paragraph) and (C)(1), 22.5,

1 22.7(A), 22.9 through 25, 25.1(A), (C)(1)(a)(introductory paragraph) and (v), (b), (c),  
2 (2)(a)(iv), and (D), 25.2, the heading of Part III of Chapter 1 of Title 28 of the Louisiana  
3 Revised Statutes of 1950, R.S. 28:50(1), (3), (4), and (6), 51(C), 51.1(A)(1), 52(A) through  
4 (C), (G)(2)(a), and (H)(2), 52.2, 52.3, 52.4(A) through (C), 53(A), (B)(1) and (2)(b) and  
5 (d)(introductory paragraph), (G)(2) and (6), (J), (K)(1), and (L)(1) and (3),  
6 53.2(A)(introductory paragraph) and (1), (B), (C)(3), and (F), 54(A) and (D)(1)(introductory  
7 paragraph) and (a) and (3), 55(B), (E)(1) and (3) through (5), (F), (G), (I), and (J),  
8 56(A)(1)(a) and (2)(b), (B), (C), and (G), 59(A), (C), and (D), 62, 64(F), 67(1) and (3),  
9 69(A)(1), 70(A), (B)(introductory paragraph) and (1), and (E)(2)(f), 71(B), (C), (E), and (F),  
10 72(A), 73, 91 through 93, 94(A), 96(A) through (C) and (E) through (H), 96.1(A), (B), and  
11 (D) through (F), 97 through 100, 101 through 145, 146(A), 147, the heading of Part VI of  
12 Chapter 1 of Title 28 of the Louisiana Revised Statutes of 1950, R.S. 28:171(C)(4)(a) and  
13 (D)(5), 171.1(introductory paragraph) and (5) through (8), 172 through 184, 185(A), 200  
14 through 202, 215.2(1)(introductory paragraph) and (2), 215.3(A) and (B), 215.4(A), the  
15 heading of Part X of Chapter 1 of Title 28 of the Louisiana Revised Statutes of 1950, R.S.  
16 28:221(1) through (6), (8), (9), and (11) through (13), 222 through 225, 227(A), (C), and (E),  
17 228, 229(A) and (C), 230(A)(introductory paragraph) and (2)(a) and (d)(i), (B), and (C), 232,  
18 233(2), 234(introductory paragraph) and (2), the heading of Chapter 5 of Title 28 of the  
19 Louisiana Revised Statutes of 1950, R.S. 28:475, 476, 477(1) and (3)(a)(introductory  
20 paragraph) and (b), 478(A), the heading of Chapter 11 of Title 28 of the Louisiana Revised  
21 Statutes of 1950, R.S. 28:771, 772(A)(1) and (2)(c) and (B), the heading of Chapter 15 of  
22 Title 28 of the Louisiana Revised Statutes of 1950, R.S. 28:841(A), 911(1), 913(A)(2) and  
23 (3), 915(A)(3), and 931(B)(2) are hereby amended and reenacted and R.S. 28:2(33) through  
24 (39) are hereby enacted to read as follows:

TITLE 28. ~~MENTAL~~ BEHAVIORAL HEALTH

CHAPTER 1. ~~MENTAL~~ BEHAVIORAL HEALTH LAW

PART I. SHORT TITLE, INTERPRETATIONS, AND DEFINITIONS

§1. Short title

This Chapter may be cited as the ~~Mental~~ Behavioral Health Law.

1 §2. Definitions

2 Whenever used in this Title, the masculine shall include the feminine, the  
3 singular shall include the plural, and the following definitions shall apply:

4 (1) "Conditional discharge" means the physical release of a judicially  
5 committed person from a treatment facility by the director or administrator or by the  
6 court. The patient may be required to report for outpatient treatment as a condition  
7 of his release. The judicial commitment of such persons shall remain in effect for  
8 a period of up to one hundred twenty days and during this time the person may be  
9 hospitalized involuntarily for appropriate medical reasons upon court order.

10 \* \* \*

11 (7) "Director" or "~~superintendent~~" "administrator" means a person in charge  
12 of a treatment facility or his deputy.

13 \* \* \*

14 (9) "Formal voluntary admission" means the admission of a person suffering  
15 from mental illness or ~~substance abuse~~ a substance-related or addictive disorder  
16 desiring admission to a treatment facility for diagnosis ~~and/or~~ or treatment of such  
17 condition who may be formally admitted upon his written request. Such persons  
18 may be detained following a request for discharge pursuant to R.S. 28:52.2.

19 (10) "Gravely disabled" means the condition of a person who is unable to  
20 provide for his own basic physical needs, such as essential food, clothing, medical  
21 care, and shelter, as a result of serious mental illness or ~~substance abuse~~ a substance-  
22 related or addictive disorder and is unable to survive safely in freedom or protect  
23 himself from serious harm; ~~the.~~ The term also includes incapacitation by alcohol,  
24 which means the condition of a person who, as a result of the use of alcohol, is  
25 unconscious or whose judgment is otherwise so impaired that he is incapable of  
26 realizing and making a rational decision with respect to his need for treatment.

27 \* \* \*

28 (14) "Mental health advocacy service" means a service established by the  
29 state of Louisiana for the purpose of providing legal counsel and representation for

1 persons with mental ~~disabilities~~ illness or substance-related or addictive disorders  
2 and for ~~children and to ensure~~ ensuring that their the legal rights of those persons are  
3 protected.

4 \* \* \*

5 (17) "Patient" means any person detained and taken care of as a person who  
6 ~~is mentally ill~~ has a mental illness or person who is suffering from ~~substance abuse~~  
7 a substance-related or addictive disorder.

8 \* \* \*

9 (20) "Person ~~with~~ who has a mental illness" means any person with a  
10 psychiatric disorder which has substantial adverse effects on his ability to function  
11 and who requires care and treatment. It does not refer to a person with, solely, an  
12 intellectual disability; or who suffers solely from epilepsy, ~~alcoholism, or drug abuse~~  
13 or a substance-related or addictive disorder.

14 (21) "Petition" means a written civil complaint filed by a person of legal age  
15 alleging that a person ~~is mentally ill~~ has a mental illness or is suffering from  
16 ~~substance abuse~~ a substance-related or addictive disorder and requires judicial  
17 commitment to a treatment facility.

18 \* \* \*

19 (26) "Respondent" means a person alleged to ~~be mentally ill~~ have a mental  
20 illness or be suffering from ~~substance abuse~~ a substance-related or addictive disorder  
21 and for whom an application for commitment to a treatment facility has been filed.

22 \* \* \*

23 (29) "~~Substance abuse~~" means the condition of a person who uses narcotic,  
24 ~~stimulant, depressant, soporific, tranquilizing, or hallucinogenic drugs or alcohol to~~  
25 ~~the extent that it renders the person dangerous to himself or others or renders the~~  
26 ~~person gravely disabled.~~ "Substance use disorder" refers to a pattern of symptoms  
27 resulting from use of a substance which the individual continues to take, despite  
28 experiencing problems as a result. Substance use disorders occur when the recurrent  
29 use of alcohol, drugs, or both causes clinically and functionally significant

1 impairment, such as health problems, disability, and failure to meet major  
 2 responsibilities at work, school, or home. Substance use disorder is based on  
 3 evidence of impaired control, social impairment, risky use, and pharmacological  
 4 criteria. The Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition,  
 5 allows clinicians to specify how severe the substance use disorder is, depending on  
 6 how many symptoms are identified. Based on a set of eleven criteria, two or three  
 7 symptoms indicate a mild substance use disorder, four or five symptoms indicate a  
 8 moderate substance use disorder, and six or more symptoms indicate a severe  
 9 substance use disorder.

\* \* \*

11 (32)(a) "Treatment facility" means any public or private hospital, retreat,  
 12 institution, mental health center, or facility licensed by the state in which any person  
 13 who is ~~mentally ill~~ has a mental illness or person who is suffering from ~~substance~~  
 14 ~~abuse~~ a substance-related or addictive disorder is received or detained as a patient  
 15 or client. The term includes Veterans Administration and public health hospitals and  
 16 forensic facilities. "Treatment facility" includes but is not limited to the following,  
 17 and shall be selected with consideration of first, medical suitability; second, least  
 18 restriction of the person's liberty; third, nearness to the patient's usual residence; and  
 19 fourth, financial or other status of the patient, except that such considerations shall  
 20 not apply to forensic facilities:

- 21 (i) ~~Community mental health centers~~ Public and private behavioral health  
 22 services providers licensed pursuant to R.S. 40:2151 et seq.
- 23 (ii) ~~Private clinics~~ Licensed residential treatment facilities.
- 24 (iii) ~~Public or private halfway houses.~~
- 25 (iv) ~~Public or private nursing homes.~~
- 26 (v) ~~(iv)~~ Public or private general hospitals.
- 27 (vi) ~~(v)~~ Public or private mental psychiatric hospitals.
- 28 (vii) ~~Detoxification centers.~~
- 29 (viii) ~~Substance abuse clinics.~~





1           (iv) Cravings.

2           (b) Addictive disorders include mood-altering behaviors or activities or  
3 process addictions. Examples of process addictions include, without limitation,  
4 gambling, spending, shopping, eating, and sexual activity.

5           (34) "Behavioral health" is a term used to refer to both mental health and  
6 substance use.

7           (35) "Client" refers to a recipient of services who has been charged with or  
8 convicted of a crime and who requires special protection and restraint in a forensic  
9 treatment facility.

10          (36) "Legal guardian" means a person judicially or statutorily designated  
11 with the duty and authority to make decisions in matters having a permanent effect  
12 on the life and development of the individual on whose behalf the guardianship is  
13 established.

14          (37) "Local governing entity" means an integrated human services delivery  
15 system with local accountability and management and which provides behavioral  
16 health and developmental disabilities services through local human services districts  
17 and authorities.

18          (38) "State psychiatric hospital" means a public, state-owned and operated  
19 inpatient facility for the treatment of mental illness and substance-related and  
20 addictive disorders.

21          (39) "Substance-related disorders" encompass disorders relating to the use  
22 of drugs in any of the following classes, which are not fully distinct:

23           (a) Alcohol.

24           (b) Caffeine.

25           (c) Cannabis.

26           (d) Hallucinogens, with separate categories for phencyclidine or similarly  
27 acting arylcyclohexylamines and for other hallucinogens.

28           (e) Inhalants.

29           (f) Opioids.





1 such as state ~~mental~~ psychiatric hospitals, public health organizations, parish  
2 authorities, child protection, and regional support networks, aimed at reducing  
3 duplication in service delivery and promoting complementary services among all  
4 entities that provide ~~mental and~~ behavioral health services to adults and children  
5 throughout the state.

6 (4) Implementation of a system of reimbursement by the Medical Assistance  
7 Program to private hospitals and to state hospitals for covered Medicaid services  
8 that, to the extent possible, allocates funding in the areas of the state based on needs,  
9 population, and acuity level as determined by the ~~Louisiana Department of Health~~  
10 department. The ~~above-mentioned~~ system of reimbursement provided for in this  
11 Paragraph may be subject to approval by the Centers for Medicare and Medicaid  
12 Services.

13 (5) Recognition of the respective ~~regions of the department~~ local governing  
14 entities of the state as ~~the~~ a focal point of all ~~mental and~~ behavioral health planning  
15 activities, including budget submissions, grant applications, contracts, and other  
16 arrangements that can be effected at the state and ~~regional~~ local levels.

17 \* \* \*

18 §14. Funding priorities; cost-effectiveness

19 A. The department may ensure that all current and future funds are expended  
20 in the most cost-effective manner and services are provided in accordance with  
21 recommended best practices subject to state oversight to ensure accountability to  
22 taxpayers and the public. The department may evaluate existing proposed  
23 expenditure plans for ~~mental and~~ behavioral health services and determine the best  
24 use of such funds to achieve positive policy outcomes in the ~~mental and~~ behavioral  
25 health ~~communities~~ community. This effort may involve the use of innovative  
26 methods of expanding the reach of current funding and securing increased local,  
27 regional, state, federal, or private source funding in the future. The department may  
28 develop methods for estimating the need for ~~mental and~~ behavioral health services

1 in certain regions of the state, with special attention to underfunded and inaccessible  
2 programs, and allocate state funds or resources according to that need.

3 B. The state may continue to provide funding for ~~mental and~~ behavioral  
4 health services that are not less than the existing allocations from the state general  
5 fund.

6 §15. Innovative ~~mental and~~ behavioral health services; programs

7 A. The department may develop goals, objectives, and priorities for the  
8 creation of innovative programs which promote and improve the ~~mental and~~  
9 behavioral health of the citizens of the state by making treatment and support  
10 services available to those persons who are most in need and least able to pay. These  
11 programs may achieve the following:

12 \* \* \*

13 (3) Promote interagency collaboration by improving the integration and  
14 effectiveness of state agencies responsible for ~~mental and~~ behavioral health care.

15 \* \* \*

16 (9) Promote emerging best practices and increased quality of care in the  
17 delivery of ~~mental and~~ behavioral health services.

18 B. The department may collaborate with ~~mental and~~ behavioral health  
19 advocates, clinicians, physicians, professional organizations, ~~parish human service~~  
20 ~~authorities~~ local governing entities, local citizens, consumers, and family members  
21 in the planning, designing, and implementation of innovative mental and behavioral  
22 health service programs and priorities in their respective regions throughout the state.

23 PART II. ~~INSTITUTIONS~~ FACILITIES AND PLACES FOR MENTAL  
24 BEHAVIORAL HEALTH PATIENTS OR CLIENTS

25 \* \* \*

26 §21. State psychiatric hospitals ~~for persons with mental illness and addictive~~  
27 ~~disorders~~

28 A. ~~The~~ For purposes of this Part, "state psychiatric hospital" refers to the  
29 hospital at Jackson, known as the ~~East Louisiana State Hospital~~ Eastern Louisiana



1 C. Each crisis response system will be designed by a local collaborative  
2 which shall include but not be limited to:

3 (1) The local provider of mental health, substance-related or addictive  
4 disorders, and developmental disability services.

5 \* \* \*

6 §22.5. Community ~~mental health centers~~ behavioral health clinics; behavioral health  
7 services providers

8 ~~The community mental health centers located in Lafayette, Pineville, Lake~~  
9 ~~Charles, Baton Rouge, New Orleans, Crowley, Shreveport, and Monroe for the care,~~  
10 ~~treatment, and rehabilitation at the community level of persons with mental illness~~  
11 ~~and persons who are mentally defective as defined in R.S. 28:2 are created and~~  
12 ~~continued as units of the department under its supervision and administration.~~  
13 ~~Guidance centers heretofore established may be converted to mental health centers~~  
14 ~~by the department or two or more of them may be merged and consolidated into a~~  
15 ~~mental health center by the department.~~

16 A. Community behavioral health clinics are facilities operating as behavioral  
17 health services providers as defined in R.S. 40:2153 and licensed by the department  
18 pursuant to the provisions of R.S. 40:2151 et seq. Community behavioral health  
19 clinics may be operated or contracted by local governing entities and may be a  
20 component of the crisis response system.

21 B. Community behavioral health clinics are differentiated from community  
22 mental health centers, which are certified by the federal government and defined by  
23 42 CFR 410.2 as entities that provide certain services as described in the Public  
24 Health Service Act and meet federal criteria for operation and reimbursement.

25 \* \* \*

26 §22.7. Geriatric hospitals and units

27 A. The department may establish and administer geriatric hospitals or units  
28 to receive and care for persons who are elderly or infirm who have been discharged  
29 by a hospital for persons ~~with~~ who have a mental illness and for other persons who

1 are elderly or infirm and in need of nursing and medical care. Such hospitals or units  
 2 may be established on sites designated by the department, provided that no such  
 3 geriatric hospital or unit may be established on any site located more than five air  
 4 miles from the administrative office of ~~East Louisiana State Hospital~~ Eastern  
 5 Louisiana Mental Health System or more than one air mile from the administrative  
 6 office of Central Louisiana State Hospital. Persons admitted to such geriatric  
 7 hospitals or units or their responsible relatives shall pay the cost of their maintenance  
 8 and care.

9 \* \* \*

10 §22.9. Rosenblum Mental Health Center

11 The name of the Hammond Mental Health Center is changed to the  
 12 Rosenblum Mental Health Center and under such name it shall continue to serve as  
 13 an outpatient center for the care, treatment, and rehabilitation of persons ~~with~~ who  
 14 have a mental illness and persons ~~who are mentally defective~~ with intellectual or  
 15 developmental disabilities at the region level.

16 §23. Psychiatric inpatient units in state general hospitals

17 The department ~~shall~~ may establish psychiatric inpatient units in state-owned  
 18 or state-contracted general hospitals for the emergency and temporary care of cases  
 19 of acute mental illness.

20 §25. Provisions for close confinement of certain ~~mental~~ patients who have a mental  
 21 illness

22 A. At ~~institutions~~ hospitals that it may designate, the department may  
 23 provide facilities for the care and confinement of ~~mental~~ patients who have a mental  
 24 illness and who require close confinement in the interest of themselves and of the  
 25 public.

26 B. The department shall designate places of confinement for patients of  
 27 dangerous tendencies and for ~~those~~ clients charged with or convicted of a crime ~~or~~  
 28 ~~misdemeanor~~ who require special protection and restraint.









1 physician, psychiatrist, psychologist, medical psychologist, or psychiatric mental  
2 health nurse practitioner, as defined in R.S. 28:2.

3 \* \* \*

4 §52. Voluntary admissions; general provisions

5 A. Any person who ~~is mentally ill~~ has a mental illness or person who is  
6 suffering from ~~substance abuse~~ a substance-related or addictive disorder may apply  
7 for voluntary admission to a treatment facility. ~~The admitting physician may admit~~  
8 ~~the person on either a formal or informal basis, as hereinafter provided.~~

9 B. Admitting physicians are encouraged to admit persons ~~with~~ who have a  
10 mental illness or persons suffering from ~~substance abuse~~ a substance-related or  
11 addictive disorder to treatment facilities on voluntary admission status whenever  
12 medically feasible.

13 C. No director or administrator of a treatment facility shall prohibit any  
14 person who ~~is mentally ill~~ has a mental illness or person who is suffering from  
15 ~~substance abuse~~ a substance-related or addictive disorder from applying for  
16 conversion of involuntary or emergency admission status to voluntary admission  
17 status. Any patient on an involuntary admission status shall have the right to apply  
18 for a writ of habeas corpus in order to have his admission status changed to voluntary  
19 status.

20 \* \* \*

21 G.

22 \* \* \*

23 (2) Knowing and voluntary consent shall be determined by the ability of the  
24 individual to understand all of the following:

25 (a) That the treatment facility to which the patient is requesting admission  
26 is one for persons ~~with~~ who have a mental illness or persons suffering from  
27 ~~substance abuse~~ a substance-related or addictive disorder.

28 \* \* \*

1 H.

2 \* \* \*

3 (2)(a) Notwithstanding the ~~provision~~ provisions of Paragraph (1) of this  
4 Subsection, any licensed physician may administer medication to a patient without  
5 his consent and against his wishes in a situation which, in the reasonable judgment  
6 of the physician who is observing the patient during the emergency, constitutes a  
7 psychiatric or behavioral emergency. For purposes of this Paragraph a "psychiatric  
8 or behavioral emergency" occurs when a patient, as a result of mental illness,  
9 ~~substance abuse~~ a substance-related or addictive disorder, or intoxication, engages  
10 in behavior which, in the clinical judgment of the physician, places the patient or  
11 others at significant and imminent risk of damage to life or limb. The emergency  
12 administration of medication may be continued until the emergency subsides, but in  
13 no event shall it exceed forty-eight hours, except on weekends or holidays when it  
14 may be extended for an additional twenty-four hours.

15 (b) The physician shall make a reasonable effort to consult with the primary  
16 physician or primary care provider outside the facility that has previously treated the  
17 patient for his ~~mental~~ behavioral health condition at the earliest possible time, but in  
18 no event more than forty-eight hours after the emergency administration of  
19 medication has begun, except on weekends or holidays, when the time period may  
20 be extended an additional twenty-four hours. The physician shall record in the  
21 patient's file either the date and time of the consultation and a summary of the  
22 comments of the primary physician or primary care provider or, if the physician is  
23 unable to consult with the primary physician or primary care provider, the date and  
24 time that a consultation with the primary physician or primary care provider was  
25 attempted.

26 §52.2. Formal voluntary admission

27 A. Any person who ~~is mentally ill~~ has a mental illness or person who is  
28 suffering from ~~substance abuse~~ a substance-related or addictive disorder desiring  
29 admission to a treatment facility for diagnosis ~~and/or~~ or treatment of a psychiatric

1 disorder or ~~substance abuse~~ a substance-related or addictive disorder and who is  
2 deemed suitable for formal voluntary admission by the admitting physician may be  
3 so admitted upon his written request.

4 B. A patient admitted under the provisions of this Section shall not be  
5 detained in the treatment facility for longer than seventy-two hours after making a  
6 valid written request for discharge to the director or administrator of the treatment  
7 facility unless an emergency certificate is executed pursuant to R.S. 28:53, or unless  
8 judicial commitment is instituted pursuant to R.S. 28:54, ~~after making a valid written~~  
9 ~~request for discharge to the director of the treatment facility.~~

10 §52.3. Noncontested admission

11 A. A person who ~~is mentally ill~~ has a mental illness or person who is  
12 suffering from ~~substance abuse~~ a substance-related or addictive disorder who does  
13 not have the capacity to make a knowing and voluntary consent to a voluntary  
14 admission status and who does not object to his admission to a treatment facility may  
15 be admitted to a treatment facility as a noncontested admission. Such person shall  
16 be subject to the same rules and regulations as a person admitted on a voluntary  
17 admission status and his treatment shall be governed by the provisions of R.S.  
18 28:52(H).

19 B. A noncontested admission may be made by a physician to a treatment  
20 facility in order to initiate a complete diagnostic and evaluative study. The diagnosis  
21 and evaluation shall include complete medical, social, and psychological studies and,  
22 when medically indicated, any other scientific study which may be necessary in  
23 order to make decisions relative to the treatment needs of the patient. In the absence  
24 of specified medical reasons, the diagnostic studies shall be completed in fourteen  
25 days. Alternative community-based services shall be thoroughly considered.

26 C. Following a review of the diagnostic evaluation study, the director or  
27 administrator of the treatment facility shall determine if the person is to remain on  
28 noncontested status, is to be discharged, is to be converted to formal ~~or informal~~  
29 voluntary status, or is to be involuntarily hospitalized pursuant to R.S. 28:53 or R.S.

1 28:54. Nothing in this Section shall be interpreted to prohibit the director of a  
 2 treatment facility from transferring the patient to another treatment facility when it  
 3 is medically indicated.

4 ~~C.~~ D. A person admitted pursuant to this Section may object to his admission  
 5 at any time. If the person informs a staff member of his desire to object to his  
 6 admission, a staff member shall assist him in preparing and submitting a valid  
 7 written objection to the director or administrator of the treatment facility. Upon  
 8 receipt of a valid objection, the director or administrator shall release the person  
 9 within seventy-two hours unless proceedings are instituted pursuant to R.S. 28:53 or  
 10 R.S. 28:54.

11 ~~D.~~ E. In no case shall a patient remain on noncontested status longer than  
 12 three months. Within that time, the patient must be converted to ~~either~~ a formal ~~or~~  
 13 ~~an informal~~ voluntary status, ~~or~~ be involuntarily hospitalized pursuant to R.S. 28:53  
 14 or R.S. 28:54, or be discharged.

15 §52.4. Admission by relative or legal guardian for substance-related or addictive  
 16 disorder treatment

17 A. A person suffering from ~~substance abuse~~ a substance-related or addictive  
 18 disorder may be admitted and detained at a ~~public or private general~~ hospital or a  
 19 ~~substance abuse in-patient~~ other treatment facility for observation, diagnosis, and  
 20 treatment for a medically necessary period not to exceed twenty-eight days, when a  
 21 parent, spouse, legal guardian, or the major child of the person if that child has  
 22 attained the age of ~~18~~ eighteen years has admitted the person or caused him to be  
 23 admitted pursuant to the provisions of R.S. 28:53.2.

24 B. At the time of admission of the person, the parent, spouse, legal guardian,  
 25 or the major child of the person if that child has attained the age of ~~18~~ eighteen years  
 26 shall execute or provide a written statement of facts, including personal observations,  
 27 leading to the conclusion that the person is suffering from ~~substance abuse~~ a  
 28 substance-related or addictive disorder and is dangerous to himself or others or is  
 29 gravely disabled, specifically describing any dangerous acts or threats, and stating

1 that the person has been encouraged to seek treatment but is unwilling to be  
2 evaluated on a voluntary basis.

3 C. As soon as practicable, but in no event more than twelve hours after  
4 admission to the hospital or ~~in-patient~~ other treatment facility, a physician shall  
5 examine the person and either execute an emergency certificate in accordance with  
6 R.S. 28:53(B) or order the person discharged. If an emergency certificate is  
7 executed, the physician or the director or administrator of the hospital or ~~in-patient~~  
8 other treatment facility shall immediately notify the coroner, and the coroner or his  
9 deputy shall conduct an independent examination, in accordance with R.S. 28:53(G).  
10 If the coroner or his deputy executes a second emergency certificate, the person may  
11 be detained for treatment for a medically necessary period ~~not to exceed twenty-eight~~  
12 ~~days from the date of his admission~~. Otherwise, he shall be discharged.

13 \* \* \*

14 §53. Admission by emergency certificate; extension; payment for services rendered

15 A.(1) A person who ~~is mentally ill~~ has a mental illness or a person who is  
16 suffering from ~~substance abuse~~ a substance-related or addictive disorder may be  
17 admitted and detained at a treatment facility for observation, diagnosis, and treatment  
18 for a period not to exceed fifteen days under an emergency certificate.

19 (2) A person suffering from ~~substance abuse~~ a substance-related or addictive  
20 disorder may be detained at a treatment facility for one additional period, not to  
21 exceed fifteen days, provided that a second emergency certificate is executed. A  
22 second certificate may be executed only if and when a physician at the treatment  
23 facility and any other physician have examined the detained person within seventy-  
24 two hours prior to the termination of the initial fifteen-day period and certified in  
25 writing on the second certificate that the person remains dangerous to himself or  
26 others or gravely disabled, and that his condition is likely to improve during the  
27 extended period. The director shall inform the patient of the execution of the second  
28 certificate, the length of the extended period, and the specific reasons therefor, and



1 shall also give notice of the same to the patient's nearest relative or other designated  
2 responsible party initially notified pursuant to Subsection F of this Section.

3 B.(1) Any physician, psychiatric mental health nurse practitioner, or  
4 psychologist may execute an emergency certificate only after an actual examination  
5 of a person alleged to ~~be mentally ill~~ have a mental illness or be suffering from  
6 ~~substance abuse~~ a substance-related or addictive disorder who is determined to be in  
7 need of immediate care and treatment in a treatment facility because the examining  
8 physician, psychiatric mental health nurse practitioner, or psychologist determines  
9 the person to be dangerous to self or others or to be gravely disabled. The actual  
10 examination of the person by a psychiatrist may be conducted by telemedicine  
11 utilizing video conferencing technology provided that a licensed ~~health care~~  
12 healthcare professional who can adequately and accurately assist with obtaining any  
13 necessary information including but not limited to the information listed in  
14 Paragraph (4) of this Subsection shall be in the examination room with the patient  
15 at the time of the video conference. A patient examined in such a manner shall be  
16 medically cleared prior to admission to a mental health treatment facility. Failure  
17 to conduct an examination prior to the execution of the certificate will be evidence  
18 of gross negligence.

19 (2) The certificate shall state:

20 \* \* \*

21 (b) The objective findings of the physician, psychiatric mental health nurse  
22 practitioner, or psychologist relative to the physical or mental condition of the  
23 person, leading to the conclusion that the person is dangerous to self or others or is  
24 gravely disabled as a result of ~~substance abuse~~ a substance-related or addictive  
25 disorder or mental illness.

26 \* \* \*

1 (d) The determination of whether the person examined is in need of  
2 immediate care and treatment in a treatment facility because the patient is ~~either~~ any  
3 of the following:

4 \* \* \*

5 G.

6 \* \* \*

7 (2) Within seventy-two hours of admission, the person shall be  
8 independently examined by the coroner or his deputy who shall execute an  
9 emergency certificate, pursuant to Subsection B of this Section, which shall be a  
10 necessary precondition to the person's continued confinement. Except as provided  
11 in Paragraph (7) of this Subsection, if the actual examination by the psychiatrist  
12 referred to in Paragraph ~~(1) of Subsection B~~ (B)(1) of this Section is conducted by  
13 telemedicine, the seventy-two-hour independent examination by the coroner shall be  
14 conducted in person.

15 \* \* \*

16 (6) When a person is confined in a treatment facility other than a state ~~mental~~  
17 ~~institution~~ psychiatric hospital, the examining coroner in the parish where the patient  
18 is confined shall be entitled to the usual fee paid for this service to the coroner of the  
19 parish in which the patient is domiciled or residing. When a person is confined in  
20 a state ~~mental institution~~ psychiatric hospital in a parish other than his parish of  
21 domicile or residence, the examining coroner shall be entitled to the fee authorized  
22 by law in his parish for the service. In either case, the fee shall be paid and accurate  
23 records of such payments kept by the governing authority of the parish in which the  
24 patient is domiciled or residing from parish funds designated for the purpose of  
25 payment to the coroner. ~~All coroners~~ Each coroner shall keep accurate records  
26 showing the number of patients confined in ~~their parishes~~ his parish pursuant to this  
27 Section.

28 \* \* \*

1 J.(1) Upon the request of a credible person of legal age who is financially  
2 unable to afford a private physician or who cannot immediately obtain an  
3 examination by a physician, the parish coroner may render, or the coroner or a judge  
4 of a court of competent jurisdiction may cause to be rendered by a physician, an  
5 actual examination of a person alleged to ~~be mentally ill~~ have a mental illness or be  
6 suffering from substance abuse a substance-related or addictive disorder and in need  
7 of immediate medical treatment because he is dangerous to himself or others or is  
8 gravely disabled. The actual examination of the person by a psychiatrist may be  
9 conducted by telemedicine utilizing video conferencing technology provided that a  
10 licensed ~~health care~~ healthcare professional who can adequately and accurately assist  
11 with obtaining any necessary information including but not limited to the  
12 information listed in Paragraph (B)(4) of this Section shall be in the examination  
13 room with the patient at the time of the video conference. If the coroner is not a  
14 physician he may deputize a physician to perform this examination. To accomplish  
15 the examination authorized by this Subsection, if the coroner or the judge is  
16 apprehensive that his own safety or that of the deputy or other physician may be  
17 endangered thereby, he shall issue a protective custody order pursuant to R.S.  
18 28:53.2.

19 (2) If the examining physician determines that the ~~above~~ standard provided  
20 in Paragraph (1) of this Subsection is met, he shall execute an emergency certificate  
21 and shall transport or cause to be transported the person named in the emergency  
22 certificate to a treatment facility. Failure to render an actual examination prior to  
23 execution of the emergency certificate shall be evidence of gross negligence.

24 (3) In any instance where the coroner or his deputy executes the first  
25 emergency certificate, the second emergency certificate shall not be executed by the  
26 coroner or his deputy, but the second emergency certificate may be executed by any  
27 other physician including a physician at the treatment ~~center~~ facility. However, if  
28 the first examination by the coroner is conducted by a psychiatrist utilizing video  
29 conferencing technology, the second examination shall be conducted in person.

1           K.(1)(a) Patients admitted by emergency certificate may receive medication  
2           and treatment without their consent, but no major surgical procedure or electroshock  
3           therapy may be performed without the written consent of a court of competent  
4           jurisdiction after a hearing. With regard to the administration of medicine, if the  
5           patient objects to being medicated, prior to making a final decision, the treating  
6           physician shall make a reasonable effort to consult with the primary physician or  
7           primary care provider outside of the facility that has previously treated the patient  
8           for his ~~mental~~ behavioral health condition. The treating physician shall, prior to the  
9           administration of such medication, record in the patient's file either the date and time  
10          of the consultation and a summary of the comments of the primary physician or  
11          primary care provider or, if the treating physician is unable to consult with the  
12          primary physician or primary care provider, the date and time that a consultation  
13          with the primary physician or primary care provider was attempted.

14           (b) Notwithstanding the provisions of Subparagraph (a) of this Paragraph,  
15          any licensed physician may administer medication to a patient without his consent  
16          and against his wishes in a situation which, in the reasonable judgment of the  
17          physician who is observing the patient during the emergency, constitutes a  
18          psychiatric or behavioral health emergency. For purposes of this Paragraph a  
19          "psychiatric or behavioral health emergency" occurs when a patient, as a result of  
20          mental illness, ~~substance abuse~~ a substance-related or addictive disorder, or  
21          intoxication engages in behavior which, in the clinical judgment of the physician,  
22          places the patient or others at significant and imminent risk of damage to life or limb.  
23          The emergency administration of medication may be continued until the emergency  
24          subsides, but in no event shall it exceed forty-eight hours, except on weekends or  
25          holidays when it may be extended for an additional twenty-four hours.

26           (c) The physician shall make a reasonable effort to consult with the primary  
27          physician or primary care provider outside the facility ~~that~~ who has previously  
28          treated the patient for his ~~mental~~ behavioral health condition at the earliest possible  
29          time, but in no event more than forty-eight hours after the emergency administration

1 of medication has begun, except on weekends or holidays, when the time period may  
2 be extended an additional twenty-four hours. The physician shall record in the  
3 patient's file either the date and time of the consultation and a summary of the  
4 comments of the primary physician or primary care provider or, if the physician is  
5 unable to consult with the primary physician or primary care provider, the date and  
6 time that a consultation with the primary physician or primary care provider was  
7 attempted.

8 \* \* \*

9 L.(1) A peace officer or a peace officer accompanied by an emergency  
10 medical service trained technician may take a person into protective custody and  
11 transport him to a treatment facility for a medical evaluation when, as a result of his  
12 personal observation, the peace officer or emergency medical service technician has  
13 reasonable grounds to believe the person is a proper subject for involuntary  
14 admission to a treatment facility because the person is acting in a manner dangerous  
15 to himself or dangerous to others, is gravely disabled, and is in need of immediate  
16 hospitalization to protect such a person or others from physical harm. The person  
17 may ~~only~~ be transported only to one of the following facilities: a treatment facility  
18 as defined in R.S. 28:2.

19 (a) ~~A community mental health center.~~

20 (b) ~~A public or private general hospital.~~

21 (c) ~~A public or private mental hospital.~~

22 (d) ~~A detoxification center.~~

23 (e) ~~A substance abuse clinic.~~

24 (f) ~~A substance abuse in-patient facility.~~

25 \* \* \*

26 (3) In the case of a person suffering from ~~substance abuse~~ a substance-  
27 related or addictive disorder and where ~~any of the above facilities are unavailable~~ no  
28 treatment facility is available, the peace officer and emergency medical service  
29 technician may use whatever means or facilities available to protect the health and

1 safety of the person suffering from ~~substance abuse~~ a substance-related or addictive  
 2 disorder until such time as ~~any of the above facilities~~ a treatment facility ~~become~~  
 3 becomes available. In taking a person into protective custody the peace officer and  
 4 emergency medical service technician may take reasonable steps to protect  
 5 themselves. A peace officer or emergency medical service technician who acts in  
 6 compliance with this ~~section~~ Section is acting in the course of his official duty and  
 7 ~~cannot~~ shall not be ~~subjected~~ subject to criminal or civil liability as a result thereof.

8 \* \* \*

9 §53.2. Order for custody; grounds; civil liability; criminal penalty for making a false  
 10 statement

11 A. Any parish coroner or judge of a court of competent jurisdiction may  
 12 order a person to be taken into protective custody and transported to a treatment  
 13 facility or the office of the coroner for immediate examination when a peace officer  
 14 or other credible person executes a statement under private signature specifying that,  
 15 to the best of his knowledge and belief, the person ~~is mentally ill~~ has a mental illness  
 16 or is suffering from ~~substance abuse~~ a substance-related or addictive disorder and is  
 17 in need of immediate treatment to protect the person or others from physical harm.  
 18 The statement may include the following information:

19 (1) A statement of facts, including the affiant's observations, leading to the  
 20 conclusion that the person ~~is mentally ill~~ has a mental illness or is suffering from  
 21 ~~substance abuse~~ a substance-related or addictive disorder and is dangerous to himself  
 22 or others or gravely disabled.

23 \* \* \*

24 B. Any parish coroner or judge of a court of competent jurisdiction may  
 25 order that a person be taken into protective custody and transported to a treatment  
 26 facility or the office of the coroner for immediate examination when a physician,  
 27 psychiatric mental health nurse practitioner, psychologist, or assigned case manager  
 28 pursuant to Part III-A of Chapter 1 of this Title presents to the coroner or judge an  
 29 order of involuntary outpatient treatment, and executes a statement specifying that



1 attorney may seek the assistance of any legal aid society or similar agency if  
2 available.

3 \* \* \*

4 D.(1) As soon as practical after the filing of the petition, the court shall  
5 review the petition and supporting documents, and determine whether there exists  
6 probable cause to believe that the respondent is suffering from mental illness which  
7 contributes to his being or causes him to be a danger to himself or others or gravely  
8 disabled, or is suffering from ~~substance abuse~~ a substance-related or addictive  
9 disorder which contributes to his being or causes him to be a danger to himself or  
10 others or gravely disabled. If the court determines that probable cause exists, the  
11 court shall appoint a physician, preferably a psychiatrist, to examine the respondent  
12 and make a written report to the court and the respondent's attorney on the form  
13 provided by the office of behavioral health of the Louisiana Department of Health.  
14 The court-appointed physician may be the respondent's treating physician. The  
15 written report shall be made available to counsel for the respondent at least three  
16 days before the hearing. This report shall set forth specifically the objective factors  
17 leading to the conclusion that the person has a mental illness or suffers from  
18 ~~substance abuse~~ a substance-related or addictive disorder, the actions or statements  
19 by the person leading to the conclusion that the mental illness or ~~substance abuse~~  
20 substance-related addictive disorder causes the person to be dangerous to himself or  
21 others or to be gravely disabled and in need of immediate treatment as a result of  
22 such illness or ~~abuse~~ disorder, and why involuntary confinement and treatment are  
23 indicated. The following criteria should be considered by the physician:

24 (a) The respondent is suffering from serious mental illness which contributes  
25 or causes him to be dangerous to himself or others or to be gravely disabled or from  
26 ~~substance abuse~~ a substance-related or addictive disorder which contributes or causes  
27 him to be dangerous to himself or others or to be gravely disabled.

28 \* \* \*





1 for his commitment. After considering all relevant circumstances, including any  
 2 preference of the respondent or his family, the court shall determine whether the  
 3 respondent should be committed to a treatment facility which is medically suitable  
 4 and least restrictive of the respondent's liberty. However, if the placement  
 5 determined by the court is unavailable, the court shall commit the respondent to the  
 6 Louisiana Department of Health for placement in a state treatment facility until such  
 7 time as an opening is available for transfer to the treatment ~~center~~ facility determined  
 8 by the court, unless the respondent waives the requirement for such transfer. Within  
 9 fifteen days following an alternative placement, the department shall submit a report  
 10 to the court stating the reasons for such placement and seeking court approval of the  
 11 placement.

12 \* \* \*

13 (3) Unless prohibited by the respondent, the department shall notify the  
 14 respondent's family of his placement at ~~and/or~~ or transfer to a state treatment facility.

15 (4) The director or administrator shall notify the court in writing when a  
 16 patient has been discharged or conditionally discharged.

17 (5) The court order shall order a suitable person to convey such person to the  
 18 treatment facility and deliver respondent, together with a copy of the judgment and  
 19 certificates, to the director or administrator. In appointing a person to execute the  
 20 order, the court should give preference to a legal guardian, near relative, or friend of  
 21 the respondent.

22 \* \* \*

23 F. Notice of any action taken by the court shall be given to the respondent  
 24 and his attorney as well as to the director or administrator of the designated treatment  
 25 facility in such manner as the court concludes would be appropriate under the  
 26 circumstances.

27 G. Each court shall keep a record of the cases relating to persons ~~with~~ who  
 28 have a mental illness coming before it under this Title and the disposition of ~~them~~  
 29 those cases. It shall also keep on file the original petition and certificates of

1 physicians required by this Section, or a microfilm duplicate of such records. All  
2 records maintained in the courts under the provisions of this Section shall be sealed  
3 and available only to the respondent or his attorney, unless the court, after hearing  
4 held with notice to the respondent, determines such records should be disclosed to  
5 a petitioner for cause shown.

6 \* \* \*

7 I.(1)(a) A patient confined to a treatment facility by judicial commitment  
8 may receive medication and treatment without his consent, but no major surgical  
9 procedures or electroshock therapy may be performed without the written authority  
10 of a court of competent jurisdiction after a hearing. With regard to the  
11 administration of medicine, if the patient objects to being medicated, prior to making  
12 a final decision, the treating physician shall make a reasonable effort to consult with  
13 the primary physician or the primary care provider outside of the facility ~~that~~ who  
14 has previously treated the patient for his ~~mental~~ behavioral health condition. The  
15 treating physician shall, prior to the administration of such medication, record in the  
16 patient's file either the date and time of the consultation and a summary of the  
17 comments of the primary physician or primary care provider or, if the treating  
18 physician is unable to consult with the primary physician or primary care provider  
19 the date and time that a consultation with the primary physician or primary care  
20 provider was attempted.

21 (b) Notwithstanding the provisions of Subparagraph (a) of this Paragraph,  
22 any licensed physician may administer medication to a patient without his consent  
23 and against his wishes in situations which, in the reasonable judgment of the  
24 physician who is observing the patient during the emergency, constitutes a  
25 psychiatric or behavioral health emergency. For purposes of this Paragraph, a  
26 "psychiatric or behavioral health emergency" occurs when a patient, as a result of  
27 mental illness, ~~substance abuse~~ a substance-related or addictive disorder, or  
28 intoxication engages in behavior which, in the clinical judgment of the physician,  
29 places the patient or others at significant and imminent risk of damage to life or limb.

1 The emergency administration of medication may be continued until the emergency  
2 subsides, but in no event shall it exceed forty-eight hours, except on weekends or  
3 holidays when it may be extended for an additional twenty-four hours.

4 (c) The physician shall make a reasonable effort to consult with the primary  
5 physician or primary care provider outside the facility ~~that~~ who has previously  
6 treated the patient for his ~~mental~~ behavioral health condition at the earliest possible  
7 time, but in no event more than forty-eight hours after the emergency administration  
8 of medication has begun, except on weekends or holidays, when the time period may  
9 be extended an additional twenty-four hours. The physician shall record in the  
10 patient's file either the date and time of the consultation and a summary of the  
11 comments of the primary physician or primary care provider or, if the physician is  
12 unable to consult with the primary physician or primary care provider, the date and  
13 time that a consultation with the primary physician or primary care provider was  
14 attempted.

15 (2) If the director or administrator of the hospital, in consultation with two  
16 physicians, determines that the condition of a committed patient is of such critical  
17 nature that it may be life-threatening unless major surgical procedures or  
18 electroshock treatment is administered, such measures may be performed without the  
19 consent otherwise provided for in this Section.

20 J. No director or administrator of a treatment facility shall prohibit any  
21 person who ~~is mentally ill~~ has a mental illness or person who is suffering from  
22 ~~substance abuse~~ a substance-related or addictive disorder from applying for  
23 conversion of involuntary or emergency admission status to voluntary admission  
24 status. Any patient on an involuntary admission status shall have the right to apply  
25 for a writ of habeas corpus to have his admission status changed to voluntary status.

26 §56. Judicial commitment; review; appeals

27 A.(1)(a) Except as provided in Subparagraph (b) of this Paragraph, all  
28 judicial commitments except those for ~~alcoholism~~ alcohol use disorder shall be for  
29 a period not to exceed one hundred eighty days. The period of commitment shall

1 expire at the end of the judicial commitment period, and the patient, if not converted  
 2 to a voluntary status, shall be discharged unless a petition for judicial commitment  
 3 has been filed prior to the expiration of the commitment period. If the court finds by  
 4 clear and convincing evidence that the patient is dangerous to self or others or is  
 5 gravely disabled as a result of mental illness, it shall render a judgment for his  
 6 commitment for an additional period. Except as provided in Subparagraph (b) of  
 7 this Paragraph, each additional judicial commitment shall expire at the end of one  
 8 hundred eighty days.

9 \* \* \*

10 (2)

11 \* \* \*

12 (b) All judicial commitments shall be reviewed by the court issuing the order  
 13 for commitment every ninety days, except those for ~~alcoholism~~ alcohol use disorder  
 14 and except those individuals committed pursuant to Code of Criminal Procedure  
 15 Article 648(B) whose cases shall continue to be reviewed annually. The director or  
 16 administrator of the treatment facility to which the person has been judicially  
 17 committed shall issue reports to the court and to counsel of record at these intervals  
 18 setting forth the patient's response to treatment, his current condition, and the reasons  
 19 why continued involuntary treatment is necessary to improve the patient's condition  
 20 or to prevent it from deteriorating. These reports shall be treated by the court as  
 21 confidential and shall not be available for public examination, nor shall they be  
 22 subject to discovery in any proceedings other than those initiated pursuant to this  
 23 Title.

24 \* \* \*

25 B. A commitment for ~~alcoholism~~ alcohol use disorder shall expire after  
 26 forty-five days and the patient, if not converted to a voluntary status, shall be  
 27 discharged, unless the court, upon application by the director or administrator of the  
 28 treatment facility, finds that continued involuntary treatment is necessary and orders  
 29 the patient recommitted for a period not to exceed sixty days; however, not more

1 than two such sixty-day recommitments may be ordered in connection with the same  
2 continuous confinement.

3 C. Notwithstanding an order of judicial commitment, the director or  
4 administrator of the treatment facility to which the individual is committed is  
5 encouraged to explore treatment measures that are medically appropriate and less  
6 restrictive. The director or administrator may at any time convert an involuntary  
7 commitment to a voluntary one should he deem that action medically appropriate.  
8 He shall inform the court of any action in that regard. The director or administrator  
9 may discharge any patient if in his opinion discharge is appropriate. The director or  
10 administrator shall not be legally responsible to any person for the subsequent acts  
11 or behavior of a patient discharged in good faith.

12 \* \* \*

13 G.(1) A person who is judicially committed may be conditionally discharged  
14 for a period of up to one hundred twenty days by the director or administrator or by  
15 the court. The patient may be required to report for outpatient treatment as a  
16 condition of his release. The terms and conditions of the conditional discharge shall  
17 be specifically set forth in writing and signed by the patient. A copy of the  
18 conditional discharge shall be given to the patient and explained to him before he is  
19 discharged.

20 (2) If the patient is conditionally discharged by the director or administrator,  
21 a copy of the conditional discharge shall be sent to the court which judicially  
22 committed him. If the patient is conditionally discharged by the court, a copy of the  
23 conditional discharge shall be sent to the facility to which the patient has been  
24 committed.

25 (3) If a patient does not comply with the terms and conditions of his  
26 conditional discharge, he is subject to any of the procedures for involuntary  
27 treatment, including but not limited to the issuance of an order for custody and the  
28 execution of an emergency certificate. A conditionally discharged patient who is  
29 confined pursuant to any of these involuntary procedures shall have all rights of an

1 involuntary patient, including the right to demand a probable cause hearing, the right  
2 to periodic reports and review, and a hearing pursuant to Subsections A and B of this  
3 Section.

4 (4) An extension of a conditional discharge may be granted upon application  
5 by the director or administrator of the treatment facility to the court and notification  
6 to respondent's counsel of record. The court may grant the extension of the  
7 conditional discharge for a period of up to one hundred twenty days. No further  
8 extension may be made without a contradictory hearing. The burden of proof is on  
9 the director or administrator of the treatment facility to show why continued  
10 treatment is necessary.

11 \* \* \*

12 §59. Commitment of prisoners

13 A. Any person acquitted of a crime ~~or misdemeanor~~ by reason of insanity or  
14 mental defect may be committed to the proper institution in accordance with Code  
15 of Criminal Procedure Arts. 654 et seq.

16 \* \* \*

17 C. Any person serving a sentence who ~~becomes mentally ill~~ develops a  
18 mental illness may be committed to the proper institution in the manner provided for  
19 judicial commitment by the district court of the place of incarceration and  
20 contradictorily with the ~~superintendent~~ director or administrator of the place of  
21 incarceration or with the sheriff of that parish. The period of commitment shall be  
22 credited against the sentence imposed by the court.

23 D. The department shall designate ~~institutions~~ treatment facilities for the care  
24 of ~~mental patients~~ clients who have a mental illness committed in accordance with  
25 this Section.

26 §62. Commitment to United States veterans and public health service hospitals

27 A. The judge of the civil district court may commit to a United States  
28 veterans hospital or United States public health service hospital any eligible

1 incompetent veteran or other person who is in need of ~~institutional~~ inpatient  
2 psychiatric care.

3 B. Prior to commitment, the ~~superintendent~~ director or administrator of the  
4 hospital shall have indicated his willingness to accept the patient and the ability to  
5 care for him. Upon admission, the patient is subject to the rules and regulations of  
6 the hospital and its officials are vested with the same powers exercised by  
7 ~~superintendents~~ directors or administrators of state ~~mental~~ psychiatric hospitals with  
8 reference to the retention of custody of the committed patient.

9 C. In the commitment of patients ~~under~~ pursuant to the provisions of this  
10 Section, the court shall notify the patient of the proceedings and shall give him an  
11 opportunity to appear and defend himself.

12 \* \* \*

13 §64. Mental Health Advocacy Service; creation; board of trustees; organization;  
14 powers; duties

15 \* \* \*

16 F.(1) Any attorney representing a person ~~with~~ who has a mental illness or a  
17 respondent as defined herein shall have ready access to view and copy all mental  
18 health and developmental disability records pertaining to his client, unless the client  
19 objects. If the patient or respondent later retains a private attorney to represent him,  
20 the mental health advocacy service shall destroy all copies of records pertaining to  
21 his case.

22 (2) Any attorney representing a person ~~with~~ who has a mental illness or a  
23 respondent as defined herein shall have the opportunity to consult with his client  
24 whenever necessary in the performance of his duties. A treatment facility shall  
25 provide adequate space and privacy for the purpose of attorney-client consultation.

26 \* \* \*

27 §67. Petition to the court

28 A petition for an order authorizing involuntary outpatient treatment may be  
29 filed in the judicial district in the parish in which the patient is present or reasonably



1 believed to be present. A petition to obtain an order authorizing involuntary  
2 outpatient treatment may be initiated by one of the following persons:

3 (1) The director or administrator of a hospital in which the patient is  
4 hospitalized.

5 \* \* \*

6 (3) The director of the ~~human service district~~ local governing entity, or his  
7 designee, ~~or the manager of the regional office of the Louisiana Department of~~  
8 ~~Health, office of behavioral health, or his designee~~, in the parish in which the patient  
9 is present or reasonably believed to be present.

10 \* \* \*

11 §69. Procedure

12 A.(1) Upon the filing of the petition authorized by R.S. 28:67, the court shall  
13 assign a time and place for a hearing, which may be conducted before any judge in  
14 the judicial district, within five days, and shall cause reasonable notice thereof and  
15 a copy of the petition to be served upon the respondent, respondent's attorney, the  
16 petitioner and the director of the ~~human service district or the regional manager of~~  
17 ~~the Louisiana Department of Health, office of behavioral health,~~ local governing  
18 entity in the parish where the petition has been filed. The notice shall inform the  
19 respondent that he has a right to be present, a right to counsel, which may be  
20 appointed, if he is indigent or otherwise qualified, has the right to counsel appointed  
21 to represent him by the Mental Health Advocacy Service, and a right to cross  
22 examine witnesses. Continuances shall be granted only for good cause shown.

23 \* \* \*

24 §70. Written treatment plan for involuntary outpatient treatment

25 A. The court shall not order involuntary outpatient treatment unless an  
26 examining physician, psychiatric mental health nurse practitioner, or psychologist  
27 appointed by the appropriate director of the ~~human service district or regional~~  
28 ~~manager of the Louisiana Department of Health, office of behavioral health,~~ local  
29 governing entity develops and provides to the court a proposed written treatment

1 plan. The written treatment plan shall be developed by a treatment team which shall  
 2 include a case manager, clinical social worker, and licensed physician, psychiatrist,  
 3 psychiatric mental health nurse practitioner, or psychologist and other specialized  
 4 service providers as deemed appropriate by the director ~~or regional manager~~ as well  
 5 as the patient and upon his request, an individual significant to him and concerned  
 6 with his welfare. The written treatment plan shall include appropriate services to  
 7 provide care coordination. Such services shall include case management services or  
 8 assertive community treatment teams. The written treatment plan shall also include  
 9 appropriate categories of services, as set forth in Subsection E of this Section, which  
 10 such team recommends the patient should receive. If the written treatment plan  
 11 includes medication, it shall state whether the medication should be self-  
 12 administered or administered by authorized personnel, and shall specify type and  
 13 dosage range of medication most likely to provide maximum benefit for the patient.

14 B. If the written treatment plan includes ~~alcohol or substance abuse~~  
 15 substance-related or addictive disorder counseling and treatment, it may include a  
 16 provision requiring testing for either alcohol or illegal substances provided the  
 17 clinical basis for recommending such plan provides sufficient facts for the court to  
 18 find all of the following:

19 (1) The patient has a history of ~~alcohol or substance abuse~~ a substance-  
 20 related or addictive disorder that is clinically related to the mental illness.

21 \* \* \*

22 E.

23 \* \* \*

24 (2) Services may include, but are not limited to, the following:

25 \* \* \*

26 (f) ~~Alcohol or substance abuse~~ Substance-related or addictive disorder  
 27 treatment.

28 \* \* \*

1 §71. Disposition

2 \* \* \*

3 B. If the court finds by clear and convincing evidence that the patient meets  
4 the criteria for involuntary outpatient treatment, and no less restrictive alternative is  
5 feasible, the court shall order that the patient receive involuntary outpatient treatment  
6 for an initial period not to exceed one year. The court shall state reasons why the  
7 proposed treatment plan is the least restrictive treatment appropriate and feasible for  
8 the patient. The order shall state the categories of involuntary outpatient treatment  
9 as set forth in R.S. 28:70, which the patient is to receive, and the court may not order  
10 treatment that has not been recommended by the physician, psychiatric mental health  
11 nurse practitioner, or psychologist in consultation with the treatment team and  
12 included in the written treatment plan. The plan shall be certified by the director of  
13 the ~~human service district or the regional manager of the Louisiana Department of~~  
14 ~~Health, office of behavioral health,~~ local governing entity responsible for services  
15 in the district where the petition is filed, as offering services which are available  
16 through their offices. The court shall not order an outpatient commitment unless the  
17 director ~~or regional manager~~ so certifies.

18 C. If the court finds by clear and convincing evidence that the patient meets  
19 the criteria for involuntary outpatient treatment, and a written proposed treatment  
20 plan has not been submitted, the court shall order the director of the ~~human service~~  
21 ~~district or the regional manager of the Louisiana Department of Health, office of~~  
22 ~~behavioral health,~~ local governing entity to provide a plan and testimony within five  
23 days of the date of the order.

24 \* \* \*

25 E. If the petitioner is the director or administrator of a hospital that operates  
26 an involuntary outpatient treatment program, the court order shall direct the hospital  
27 to provide all categories of involuntary outpatient treatment services. If the hospital  
28 does not have such a program or if the patient is discharged to a different ~~district or~~  
29 ~~region~~ local governing entity, or if the director of the ~~human service district or~~



1 §73. Application to stay, vacate, or modify

2 In addition to any right or remedy available by law, the patient may apply to  
3 the court to stay, vacate, or modify the order and he shall notify the director ~~or~~  
4 ~~manager~~ of his application.

5 \* \* \*

6 §91. Transfer to ~~mental institution~~ psychiatric hospital

7 A. The judge shall designate or shall request the ~~superintendent~~ administrator  
8 to provide an attendant to ~~conduct~~ transfer the patient to the ~~institution~~ psychiatric  
9 hospital and may authorize the employment of assistants if necessary.

10 B. Wherever practicable, the ~~mental~~ patient to be hospitalized shall be  
11 permitted to be accompanied by one or more of his friends or relatives.

12 ~~Upon delivering the patient, the attendant shall indorse that fact upon a~~  
13 ~~warrant and the superintendent receiving the patient shall sign the warrant in~~  
14 ~~acknowledgment.~~

15 §92. Transfer of patients from military establishments

16 A. Any resident and rightful charge upon the state who ~~becomes mentally~~  
17 ~~ill~~ suffers from a mental illness while in military service and is returned to the state  
18 because of need of ~~institutional~~ inpatient psychiatric care; shall be directly  
19 transferred from the military establishment to a state psychiatric hospital, provided  
20 arrangements to receive him are made in advance with the ~~superintendent~~ hospital  
21 administrator.

22 B. Unless sooner discharged from military service, the patient shall be  
23 detained for a period of observation not to exceed thirty days. If it is found that he  
24 should remain at the hospital, he shall, after discharge from military service, be  
25 committed in accordance with the provisions of this Chapter.

26 §93. Transfer of veterans to United States veterans hospitals

27 A. Any veteran eligible for treatment in a United States veterans hospital  
28 who has been committed to a ~~mental~~ psychiatric hospital within the state may be  
29 transferred to a United States veterans hospital.



1 C. A ~~patient~~ client committed in accordance with the provisions of Article  
2 ~~267~~ 648 of the Code of Criminal Procedure shall be discharged only in the manner  
3 provided in that Article.

4 \* \* \*

5 E. A patient who has shown dangerous tendencies shall be discharged upon  
6 conditional release with the written consent of the ~~division~~ court after an  
7 examination and after sufficient guarantee of proper supervision of the patient by a  
8 ~~reputable~~ person who is approved by the court.

9 F. A patient whose discharge is opposed by a legal guardian, relative, or  
10 other interested person shall be discharged only after the person opposing has been  
11 notified and given an opportunity to state his reasons why the patient should be  
12 detained for further care and treatment.

13 G. A ~~mental defective~~ patient who has a mental illness who no longer  
14 requires treatment may be discharged with the approval of the ~~division~~ attending  
15 physician and treatment team. ~~and with the approval of the committing court if~~  
16 ~~commitment was by court order.~~

17 H. A ~~mental defective~~ patient who has a mental illness and is convicted of  
18 a crime or misdemeanor prior to his transfer to ~~an institution for mental defectives~~  
19 a psychiatric hospital shall not be discharged prior to the time he might have been  
20 discharged from his original place of detention.

21 §96.1. Discharge by the ~~superintendent~~ director or administrator of a private ~~mental~~  
22 psychiatric hospital

23 A. Except as otherwise provided in this Section the ~~superintendent~~ director,  
24 administrator, or head of a private ~~mental~~ psychiatric hospital may discharge any  
25 patient committed to his ~~institution~~ hospital only on the certificate of either two  
26 physicians, or one physician and one psychologist, medical psychologist, or  
27 psychiatric mental health nurse practitioner stating that the patient has sufficiently  
28 recovered and that no harm will result from his discharge.





1 §98.2. Immunity of superintendent and ~~mental~~ psychiatric hospital

2 Any detentions, confinements, commitments or discharges made of a ~~mental~~  
3 patient who has a mental illness in accordance with this Chapter to any state or  
4 private ~~mental psychiatric~~ hospital ~~or institution~~ by the ~~superintendent~~ director or  
5 administrator thereof, acting in good faith, reasonably and without negligence, are  
6 hereby declared to be administrative acts of the ~~superintendent and/or~~ director,  
7 administrator, or the hospital, and the ~~superintendent~~ director, administrator, and the  
8 hospital are hereby granted immunity from liability for damages to any patient so  
9 detained, confined, or committed for false imprisonment or otherwise; provided,  
10 however, that the ~~superintendent and/or~~ director, administrator, or the hospital shall  
11 not thereby be exempt from liability for negligence in the care or treatment of such  
12 patient.

## 13 §99. Discharge by lapse of time

14 Any patient continuously absent from ~~an institution~~ a psychiatric hospital  
15 without authorized leave for ~~twelve months~~ seventy-two hours is automatically  
16 discharged and may be readmitted only according to law. This Section ~~does~~ shall not  
17 apply to ~~mental defectives or epileptics, whose leaves are indefinite and who can be~~  
18 ~~returned at any time until formal discharge, nor to patients~~ clients committed in  
19 accordance with R.S. 28:59 or Code of Criminal Procedure Article 648 or 654.

## 20 §100. Leaves of absence for patients

21 A. The ~~superintendent~~ treating physician may grant to patients leaves of  
22 absence for such time and upon such conditions as he prescribes. In granting leave,  
23 the ~~superintendent~~ director or administrator is subject to the restrictions provided in  
24 R.S. 28:96.

25 B. A patient on leave may be returned at any time by the ~~superintendent~~  
26 director, administrator, or the person to whom he has been released. ~~The cost of~~  
27 ~~return shall be paid by the latter.~~



1 patient. He shall be suitably clothed and, if necessary, shall be accompanied by an  
2 attendant who shall deliver the patient with due care to the proper officials at the  
3 destination. If the patient is able to travel alone, he shall be provided with sufficient  
4 funds for sustenance and travel.

5 B. The department or executive authority of this state may enter into  
6 agreements with other states for reciprocity in deporting ~~mental~~ psychiatric patients.

7 §104. Importation of ~~mental~~ nonresident psychiatric patients prohibited

8 A. No person or public carrier shall knowingly import a ~~non-resident~~  
9 nonresident ~~mental~~ psychiatric patient into this state for the purpose of having him  
10 committed.

11 B. Any person who violates the provisions of this Section shall be fined one  
12 hundred dollars or imprisoned for sixty days, or both, and the patient shall be  
13 removed from the state at the expense of the offending person or public carrier.

14 §105. Extradition of escaped patients

15 ~~The extradition of escaped patients shall be in accordance with the Uniform~~  
16 ~~Act for the Extradition of Persons of Unsound Mind.~~

17 A. For purposes of this Section, the following definitions relative to  
18 extradition of escaped patients apply:

19 (1) "Executive authority" means the governor of a state or other executive  
20 of a territory, district, or insular or other possession of the United States, or his  
21 appointed designee.

22 (2) "Flight" and "fled" shall mean any departure from the jurisdiction of the  
23 court where the proceedings provided for in this Section may have been instituted  
24 and are still pending, with the effect of avoiding, impeding, or delaying the action  
25 of the court in which such proceedings may have been instituted or be pending.

26 (3) "State" shall include any state, territory, district, and insular and other  
27 possession of the United States.

28 B.(1) Whenever the executive authority of any state other than Louisiana  
29 demands the return of an escaped nonresident patient and produces a certified copy

1 of the decree or other judicial process and proceedings for involuntary commitment  
2 with an affidavit showing the person to be an escapee, it shall be the duty of the  
3 executive authority of Louisiana to apprehend and secure the escapee.

4 (2) The executive authority of Louisiana shall give immediate notice of the  
5 apprehension of the escapee to the executive authority making such demand, or to  
6 the agent of the authority appointed to receive the escapee, and shall cause the  
7 escapee to be delivered to such agent. If no agent appears within forty days from the  
8 time of apprehension, the escapee may be discharged.

9 C. All costs and expenses incurred in apprehending, securing, maintaining,  
10 and transmitting the escapee shall be paid by the state making the demand for the  
11 return of the escapee. Any agent so appointed who receives the escapee into his  
12 custody shall be empowered to transmit him to the state from which he has fled.

#### 13 PART V. FEES AND COSTS

##### 14 §141. Costs of commitment and examination

15 A. If financially able, the patient or his ~~legally responsible relative~~ legal  
16 guardian shall pay the costs of commitment, including examination fees, expenses  
17 incurred in calling witnesses, fees of counsel for the patient, and fees of the  
18 commission, otherwise the parish of domicile in the case of a resident or the ~~division~~  
19 department in the case of a non-resident shall pay these costs.

20 B. Fees for services rendered by coroners or other experts in the commitment  
21 of patients shall be in accordance with the provisions contained in Article ~~267~~ 659  
22 of the Code of Criminal Procedure and the special laws relating to the fees of  
23 coroners and assisting physicians in interdiction proceedings. Except for emergency  
24 commitments which do not result in court commitment and voluntary admissions,  
25 the coroner of the parish of domicile shall receive the usual fee allowed in a formal  
26 commitment; for all types of commitment under this Chapter, even though he does  
27 not act personally in the commitment proceeding.

1 §142. Costs of transportation

2 A. If financially able, the patient or his ~~legally responsible relative~~ legal  
3 guardian shall pay all ~~the~~ costs incident to transporting the patient to the ~~mental state~~ state  
4 psychiatric hospital; otherwise the department, in the case of a nonresident, or the  
5 parish in which the hearing was held, in the case of a resident, shall pay these costs.  
6 If a patient's domicile is in a parish other than that in which the hearing was held, the  
7 former parish shall reimburse the latter for these costs.

8 B. Fees for transporting patients shall be in accordance with the special laws  
9 establishing fees for transporting prisoners.

10 §143. Costs of maintenance and ~~boarding-out~~ daily care

11 A. The ~~superintendent~~ director or administrator of each ~~mental institution~~  
12 state psychiatric hospital shall include the costs of maintenance and ~~boarding-out~~  
13 daily care of patients as an expense of the ~~institution~~ state psychiatric hospital and  
14 shall prepare budgets in accordance with the provisions of Chapter 1 of Title 39 of  
15 the Louisiana Revised Statutes of 1950.

16 B. If financially able, the patient or his ~~legally responsible relative~~ legal  
17 guardian shall reimburse the ~~institution~~ state psychiatric hospital for all or a part of  
18 the cost of his maintenance or ~~boarding-out~~ daily care.

19 §144. Investigation and assessment of charges

20 The department shall develop procedures to determine the ability of a patient  
21 or his ~~legally responsible relative~~ legal guardian to pay all or a part of the costs of the  
22 patient's care and shall adopt a policy including rules and regulations for the  
23 assessment of charges in accordance with the ability to pay.

24 §145. Costs of transfer

25 The person requesting the transfer shall pay the costs of transferring a patient  
26 between ~~institutions~~ hospitals. The department shall pay the costs of transfers made  
27 at its request.

1 §146. Expenses incident to discharge, removal, or funeral

2 A. If financially able, the patient or his ~~legally responsible relative~~ legal  
3 guardian shall pay the costs of the patient's funeral or his discharge and removal,  
4 including traveling expenses to his home; otherwise the ~~institution~~ state psychiatric  
5 hospital shall pay these costs. If discharge is ordered by the department and the  
6 ~~institution has to pay~~ state psychiatric hospital pays the patient's traveling expenses  
7 to his home, the department shall reimburse the ~~institution~~ state psychiatric hospital  
8 out of appropriations for persons who are indigent and have a mental illness.

9 \* \* \*

10 §147. Method of collection

11 The department may demand and receive any sums assessed as costs against  
12 a patient or his ~~legally responsible relative~~ legal guardian, and in the case of  
13 nonpayment, may sue to enforce collection.

14 \* \* \*

15 PART VI. RIGHTS OF PERSONS SUFFERING FROM MENTAL ILLNESS AND  
16 ~~SUBSTANCE ABUSE~~ SUBSTANCE-RELATED OR ADDICTIVE DISORDERS

17 §171. Enumerations of rights guaranteed

18 \* \* \*

19 C.

20 \* \* \*

21 (4)(a) The director of any substance ~~abuse~~ use treatment facility may restrict  
22 the visitation rights of a patient who is voluntarily admitted to such treatment facility  
23 under the provisions of R.S. 28:52, 52.1, 52.2, 52.3, and 52.4 for the initial phase of  
24 treatment but no longer than seven days unless good cause exists to extend the  
25 restriction and is so documented in the patient's record. This restriction shall not  
26 apply to visitation by the patient's attorney, or if he is not represented by counsel, the  
27 mental health advocate, or the patient's minister. This restriction shall also not apply  
28 to a parent or legal guardian of a patient who is a minor unless the director  
29 determines that good cause exists that such restriction shall be in the best interest of

1 the patient and is so documented in the patient's record. When the facility director  
2 determines the need to restrict visitation of new patients he shall post notice of such  
3 restriction in places prominent to all new admissions, and shall inform each new  
4 patient of the restriction prior to the admission of the patient, and the length and  
5 duration thereof, and further, that such restriction may be extended on an individual  
6 basis as determined to be in the patient's interest by the treatment staff with the  
7 concurrence of the medical director.

8 \* \* \*

9 D. Seclusion or restraint shall only be used to prevent a patient from  
10 physically injuring himself or others. Seclusion or restraint may not be used to  
11 punish or discipline a patient or used as a convenience to the staff of the treatment  
12 facility. Seclusion or restraint shall be used only in accordance with the following  
13 standards:

14 \* \* \*

15 (5) A renewal order for up to twelve hours of seclusion or restraint may be  
16 issued by a physician, psychologist, medical psychologist, or psychiatric mental  
17 health nurse practitioner with institutional authority to order seclusion or restraint  
18 after determining that there is no less restrictive means of preventing injury to the  
19 patient or others. If any patient is held in seclusion or restraint for twenty-four  
20 consecutive hours, the physician, psychologist, medical psychologist, or psychiatric  
21 mental health nurse practitioner with institutional authority shall conduct an actual  
22 examination of the patient and document the reason why the use of seclusion or  
23 restraint beyond twenty-four consecutive hours is necessary, and the next of kin or  
24 responsible party shall be notified by the twenty-sixth hour.

25 \* \* \*

26 §171.1. Principles for the ~~mental~~ behavioral health system

27 The department and any entity which receives funding through a state  
28 contract to provide services to persons ~~who are mentally ill~~ with needs relating to  
29 behavioral health, as defined in R.S. 28:2, shall provide, to the maximum extent

1 possible, ~~mental~~ behavioral health treatment, services, and supports which are  
2 consistent with the following principles:

3 \* \* \*

4 (5) Persons with ~~mental illness~~ behavioral health needs are generally best  
5 able to determine their own needs, rather than their needs being determined by  
6 others.

7 (6) For children with ~~mental illness~~ behavioral health needs, the needs of the  
8 entire family should be considered in the development of family supports.

9 (7) Family supports may enable children to live in stable family  
10 environments with enduring relationships with one or more adults regardless of the  
11 severity of the ~~mental illness~~ behavioral health needs of the child or the degree of  
12 support necessary.

13 (8) Children and young adults with ~~mental illness~~ behavioral health needs  
14 receive and participate in an appropriate education which enables them to have  
15 increased opportunities for well being, development, and inclusion in their  
16 communities.

17 \* \* \*

18 §172. Deposit of patients' funds; disbursement

19 A. The ~~superintendent~~ administrator of each state psychiatric hospital for  
20 ~~persons with mental illness~~ is authorized to receive and receipt for funds belonging  
21 to a patient and shall keep such funds on deposit for the use and benefit of the  
22 patient. Such funds shall be considered as being on deposit with an agency of the  
23 state of Louisiana and no bond shall be required of the ~~superintendent~~ department.  
24 Disbursement thereof shall be made only on order of the court having jurisdiction  
25 over the patient if he has been judicially interdicted or if not, an order of the person  
26 or governmental agency making the deposit in behalf of the patient.

27 B. When a patient dies who has funds on deposit to his credit, the  
28 ~~superintendent~~ administrator may at his discretion use whatever portion of ~~such~~ those  
29 funds is needed to give the patient a decent burial. The remainder of the patient's



1 funds may be claimed by his heirs by appropriate legal action. If such funds are not  
2 claimed by the heirs of a deceased patient within five years of the date of his death,  
3 then his funds shall become the property of the state and be used by the  
4 ~~superintendent~~ administrator for the benefit of other patients in the hospital.

5 §173. Interest earned on funds of ~~mental~~ psychiatric hospital patients

6 Interest earned on funds of ~~mental~~ patients deposited with the ~~institution~~ shall  
7 ~~be expended by the institution for recreational purposes for the benefit of the inmates~~  
8 ~~therein~~ psychiatric hospital shall be remitted to the individual patient.

9 PART VII. PENALTIES

10 §181. Improper commitment

11 Any person who, alone or in conspiracy with others, unlawfully, ~~wilfully~~  
12 willfully, maliciously, and without reasonable cause, commits or attempts to commit  
13 ~~to any mental institution~~ any person not ~~sufficiently ill to require~~ suffering from  
14 mental illness or a substance-related or addictive disorder to the extent that he  
15 requires care shall be fined not more than one thousand dollars, ~~or~~ imprisoned for not  
16 more than one year, or both.

17 §183. Furnishing weapons

18 Any person who knowingly makes available any dangerous instrument or  
19 weapon to any ~~patient~~ client of any ~~mental institution~~ treatment facility shall be fined  
20 not more than five hundred dollars, ~~or~~ imprisoned for not more than two years, or  
21 both.

22 §184. Furnishing intoxicants

23 Any person who knowingly makes available any intoxicant to any ~~patient~~  
24 client of any ~~mental institution~~ treatment facility, except with the permission of the  
25 ~~superintendent~~ director or administrator, shall be fined not more than five hundred  
26 dollars, or imprisoned for not more than one year, or both.

27 §185. Unlicensed counseling

28 A. No person shall hold himself out to be a counselor with a specific  
29 specialty to provide mental health or ~~substance abuse~~ substance-related or addictive

1 disorder treatment services, or attempt to provide counseling services in this state,  
2 and receive fees either from the patient or a third party, unless he is authorized to  
3 practice in the specific specialty area by the appropriate state or regulatory authority.

4 \* \* \*

5 §200. Promotion of a community-based system of care

6 It is hereby declared to be a function of the Louisiana Department of Health  
7 to promote the establishment and administration of a community-based system of  
8 care, including but not limited to community behavioral health ~~centers~~ clinics for  
9 persons ~~with~~ who have a mental illness, persons with developmental disabilities, or  
10 persons with both conditions as contemplated by the provisions of R.S. 40:2013.

11 ~~Behavioral health centers as used herein shall include guidance centers.~~

12 §201. Transfer of administration

13 The department may continue to administer any such existing ~~centers~~ clinics,  
14 but its primary endeavor shall be to transfer responsibility for the administration of  
15 existing facilities or facilities that may hereafter be created to local associations,  
16 nonprofit corporations, police juries, school boards, municipalities, or other public  
17 agencies that have demonstrated a desire to establish, maintain, and operate facilities  
18 for persons ~~with~~ who have a mental illness, developmental disabilities, or both  
19 conditions on a municipal, parish, or other local area basis.

20 §202. Lease of land, buildings, and equipment

21 The department may lease to responsible local organizations or to the  
22 governing bodies of local public agencies any ~~state-owned~~ state-owned land,  
23 buildings, and equipment designed for or being operated as a behavioral health  
24 ~~center~~ clinic.

25 \* \* \*

26 §215.2. Coroner's Strategic Initiative for a Health Information and Intervention

27 Program; powers and duties

28 Subject to the availability of adequate funding, a CSI/HIP may perform any  
29 of the following functions:

1 (1) Provide a home-based support system, which shall not provide any  
2 ~~mental~~ behavioral health treatment but rather shall provide aid to the individual to  
3 ensure that the treatment protocol is being met and to access available ~~mental~~  
4 behavioral health resources in the community for persons who satisfy all of the  
5 following criteria:

6 \* \* \*

7 (2) Establish a community resource center that is accessible by telephone or  
8 Internet to provide twenty-four hour support for persons suffering from a mental  
9 ~~health or substance abuse condition or~~ illness or substance-related or addictive  
10 disorder by providing educational and outreach materials about the resources for  
11 ~~mental~~ behavioral health patients which are available in the community, including  
12 the location, transportation, and methods for accessing these resources.

13 \* \* \*

14 §215.3. Treatment facilities; dissemination of information

15 A. ~~For~~ Notwithstanding R.S. 28.2, for the purposes of this Section,  
16 "treatment facility" shall mean any healthcare facility which provides services or  
17 treatment to a person who is suffering from a mental ~~health or substance abuse~~  
18 ~~condition or~~ illness or substance-related or addictive disorder except for a nursing  
19 home as defined in R.S. 40:2009.2.

20 B. A treatment facility shall provide to all individuals in the parish suffering  
21 from a mental ~~health condition~~ illness or substance-related or addictive disorder upon  
22 discharge or release an information and consent form which details the information,  
23 programs, and services which can be provided by the CSI/HIP to individuals  
24 suffering from mental ~~health conditions~~ illness and substance-related or addictive  
25 disorders and includes a voluntary consent form for the individual to complete if the  
26 individual desires to have the treatment facility notify the CSI/HIP on behalf of the  
27 individual that the individual would like to be contacted by the CSI/HIP to receive  
28 additional information about the program.

29 \* \* \*

1 §215.4. Consent

2 A. Prior to personnel of the coroner's office or CSI/HIP providing any home-  
3 based supports or services to an individual, the personnel of the coroner's office or  
4 of the CSI/HIP shall provide to the individual in writing a full disclosure of all  
5 services to be provided, frequency of home visits, and notice that the individual may  
6 withdraw his consent in writing at any time. In addition, the individual shall also  
7 consent in writing to the list of persons, if any, with whom the personnel of the  
8 coroner or the CSI/HIP may discuss his ~~mental~~ behavioral health condition.

9 \* \* \*

10 PART X. ADVANCE DIRECTIVES FOR ~~MENTAL~~  
11 BEHAVIORAL HEALTH TREATMENT

12 §221. Definitions

13 As used in this Part:

14 (1) "Advance directive for ~~mental~~ behavioral health treatment" or "advance  
15 directive" means a written document voluntarily executed by a principal in  
16 accordance with the requirements of this Part and includes a declaration or the  
17 appointment of a representative or both.

18 (2) "Declaration for ~~mental~~ behavioral health treatment" or "declaration"  
19 means a written document executed by a principal, in accordance with the  
20 requirements of this Part, setting forth preferences or instructions regarding ~~mental~~  
21 behavioral health treatment in the event the principal is determined to be incapable  
22 and ~~mental~~ behavioral health treatment is necessary.

23 (3) "Director" or "~~superintendent~~" administrator" means a person in charge  
24 of a treatment facility or his deputy.

25 (4) "Incapable" means that, due to any infirmity, the principal is currently  
26 unable to make or to communicate reasoned decisions regarding the principal's  
27 ~~mental~~ behavioral health treatment.

28 (5) "~~Mental Behavioral~~ behavioral health treatment" ~~shall have the same meaning as~~  
29 ~~provided in R.S. 28:2(28) and includes but is not limited to electroshock therapy,~~



1 C. If an advance directive for ~~mental~~ behavioral health treatment has been  
2 delivered to the principal's treating physician or other provider and the principal has  
3 been determined to be incapable pursuant to R.S. 28:226, at the expiration of five  
4 years after its execution, it shall remain effective until the principal is no longer  
5 incapable.

6 §223. Designation of representative for decisions about ~~mental~~ behavioral health  
7 treatment

8 An advance directive for ~~mental~~ behavioral health treatment may designate  
9 a competent adult to act as a representative to make decisions about ~~mental~~  
10 behavioral health treatment. An alternative representative may also be designated  
11 to act as representative if the original designee is unable or unwilling to act at any  
12 time. A representative who has accepted the appointment in writing may make  
13 decisions about ~~mental~~ behavioral health treatment on behalf of the principal only  
14 when the principal is determined to be incapable pursuant to R.S. 28:226. The  
15 decisions shall be consistent with any desires the principal has expressed in the  
16 declaration.

17 §224. Execution of advance directive; witnesses; ~~mental-status~~ psychiatric  
18 examination

19 A. An advance directive for ~~mental~~ behavioral health treatment shall be valid  
20 only if it is signed by the principal and two competent witnesses and accompanied  
21 by a written ~~mental-status~~ psychiatric examination performed by a physician or  
22 psychologist attesting to the principal's ability to make reasoned decisions  
23 concerning his ~~mental~~ behavioral health treatment. The witnesses shall attest that the  
24 principal is known to them, signed the advance directive in their presence, and does  
25 not appear to be unable to make reasoned decisions concerning his ~~mental~~ behavioral  
26 health treatment or under duress, fraud, or undue influence. Individuals specified in  
27 R.S. 28:234 may not act as witnesses.

28 B. In determining the principal's ability, the physician or psychologist should  
29 consider all of the following:

1 (1) ~~whether~~ Whether the principal demonstrates an awareness of the nature  
2 of his illness and situation;

3 (2) ~~whether~~ Whether the principal demonstrates an understanding of  
4 treatment and the risks, benefits, and alternatives; ~~and~~.

5 (3) ~~whether~~ Whether the principal communicates a clear choice regarding  
6 treatment that is a reasoned one, even though it may not be in the person's best  
7 interest.

8 §225. Operation of advance directive; physician or provider to act in accordance  
9 with advance directive

10 A. An advance directive shall become operative when it is delivered to the  
11 principal's treating physician or other ~~mental~~ behavioral health treatment provider  
12 and shall remain valid until revoked or expired.

13 B. The treating physician or provider shall act in accordance with an  
14 operative advance directive when the principal has been found to be incapable  
15 pursuant to R.S. 28:226. Notwithstanding the operative advance directive, the  
16 treating physician or provider shall endeavor to communicate with the principal  
17 regarding his proposed ~~mental~~ behavioral health treatment and even continue to  
18 obtain the principal's informed consent to all ~~mental~~ behavioral health treatment  
19 decisions if the principal is capable of providing informed consent or refusal.

20 \* \* \*

21 §227. Scope of authority of representative; powers and duties; limitation on liability

22 A. The representative shall not have the authority to make ~~mental~~ behavioral  
23 health treatment decisions unless the principal is determined to be incapable as  
24 provided in R.S. 28:226.

25 \* \* \*

26 C. Except to the extent the right is limited by the advance directive or any  
27 state or federal law, a representative shall have the same right as the principal to  
28 receive information regarding both proposed and administered ~~mental~~ behavioral  
29 health treatment and to receive, review, and consent to disclosure or use of medical

1 records relating to that treatment. This representative's right of access to the  
2 principal's ~~mental~~ behavioral health treatment information shall not waive any  
3 evidentiary privilege.

4 \* \* \*

5 E. A representative shall not be subject to criminal prosecution, civil  
6 liability, or professional disciplinary action for any action taken in good faith  
7 pursuant to an advance directive for ~~mental~~ behavioral health treatment.

8 §228. Prohibitions against requiring an individual to execute or refrain from  
9 executing an advance directive

10 An individual shall not be required to execute or to refrain from executing an  
11 advance directive for ~~mental~~ behavioral health treatment as a criterion for insurance,  
12 as a condition for receiving ~~mental~~ behavioral or physical health services, or as a  
13 condition of discharge from a treatment facility.

14 §229. Advance directive for ~~mental~~ behavioral health treatment; part of medical  
15 record; physician or provider compliance; withdrawal of physician or  
16 provider

17 A. Upon being presented with an advance directive for ~~mental~~ behavioral  
18 health treatment, a physician or other provider shall make the advance directive a  
19 part of the principal's medical record. When acting under authority of an advance  
20 directive, a physician or provider shall comply with it to the fullest extent possible,  
21 consistent with the appropriate standard of care, reasonable medical practice, the  
22 availability of treatments requested, and applicable law. If the physician or other  
23 provider is unable or unwilling at any time to carry out preferences or instructions  
24 contained in an advance directive for ~~mental~~ behavioral health treatment or the  
25 decisions of the representative, the physician or provider may withdraw from  
26 providing treatment to the principal.

27 \* \* \*



1 C. For the purposes of this Section, "physician" means the treating physician  
2 or any other physician proposing or administering ~~mental~~ behavioral health treatment  
3 to the principal.

4 §230. Disregarding advance directives; circumstances

5 A. The physician or provider may subject a principal determined to be  
6 incapable pursuant to R.S. 28:226 to ~~mental~~ behavioral health treatment in a manner  
7 contrary to the principal's wishes as expressed in an advance directive for ~~mental~~  
8 behavioral health treatment only:

9 \* \* \*

10 (2) When the treating physician determines that psychotropic medication is  
11 essential and after compliance with the following procedures:

12 (a) When a principal's advance directive for behavioral health treatment or  
13 his representative refuses medication that the treating physician believes is essential,  
14 the director or administrator of the treatment facility shall conduct an administrative  
15 review to determine whether the principal should be forcibly medicated contrary to  
16 his wishes.

17 \* \* \*

18 (d) A principal may be medicated contrary to the wishes expressed in his  
19 advance directive if, based on a review of the advance directive and the reasons  
20 stated therein, the patient's medical chart, a personal examination of the patient, the  
21 wishes of the principal's representative, if any, and the recommendations of the  
22 treating physician, the director determines that the medication is medically essential.  
23 The director shall consider the following criteria in making that decision:

24 (i) The patient ~~is mentally ill~~ has a mental illness and is dangerous to himself  
25 or others or gravely disabled without the medication.

26 \* \* \*

27 B. An advance directive shall not limit the authority provided in ~~R.S. 28:2~~  
28 ~~et seq.~~, this Chapter to take a principal into protective custody or to involuntarily  
29 admit or commit a principal to a treatment facility.

1 C. An advance directive shall not authorize admission to or retention in a  
2 ~~mental health~~ treatment facility for a period in excess of fifteen days.

3 \* \* \*

4 §232. Limitations on liability of physician or provider

5 A physician or provider who administers or does not administer ~~mental~~  
6 behavioral health treatment according to and in good faith reliance upon the validity  
7 of an advance directive for ~~mental~~ behavioral health treatment shall not be subject  
8 to criminal prosecution, civil liability, or professional disciplinary action resulting  
9 from a subsequent finding of an advance directive's invalidity.

10 §233. Individuals prohibited from serving as representative

11 The following individuals shall be prohibited from serving as a  
12 representative:

13 \* \* \*

14 (2) An owner, operator, or employee of a ~~health care~~ treatment facility in  
15 which the principal is a patient, client, or resident if the owner, operator, or employee  
16 is unrelated to the principal by blood, marriage, or adoption.

17 §234. Individuals prohibited from serving as witnesses to advance directive for  
18 ~~mental~~ behavioral health treatment

19 The following individuals shall be prohibited from serving as a witness to the  
20 signing of an advance directive for ~~mental~~ behavioral health treatment:

21 \* \* \*

22 (2) An owner, operator, or relative of an owner or operator of a ~~mental~~  
23 behavioral health treatment facility in which the principal is a patient or resident.

24 \* \* \*



1 (3)(a) "Person ~~with~~ who has a mental illness or a developmental disability"  
2 means any person who has a physical or mental impairment which substantially  
3 limits one or more of the following major life activities:

4 \* \* \*

5 (b) This definition shall not include persons with ~~substance-use~~ substance-  
6 related or addictive disorders, nor shall it apply to persons ~~with~~ who have mental  
7 illness or developmental disabilities and are currently under sentence or on parole  
8 from any criminal violation or who have been found not guilty of a criminal charge  
9 by reason of insanity.

10 §478. Promotion of community based homes

11 A. In order to achieve uniform statewide implementation of the policies of  
12 this Title and of those of the Developmental Disabilities Law and of the ~~Mental~~  
13 Behavioral Health Law, it is necessary to establish the statewide policy that  
14 community homes are permitted by right in all residential districts zoned for  
15 multiple-family dwellings.

16 \* \* \*

17 CHAPTER 11. SUBSTANCE-RELATED AND ADDICTIVE DISORDERS

18 §771. Office of behavioral health; functions ~~related to~~ regarding substance-related  
19 and addictive disorders

20 A. The office of behavioral health of the Louisiana Department of Health,  
21 hereinafter referred to as the "office", shall perform the functions of the state relating  
22 to the care, training, treatment, and education of persons suffering from substance-  
23 related and addictive disorders and the prevention of ~~addictive~~ those disorders. It  
24 shall administer residential and outpatient care facilities of the state for substance-  
25 related and addictive disorder patients and administer the substance-related and  
26 addictive disorders programs in the state.

27 B. The office shall additionally perform the following duties and  
28 responsibilities:

1 (1) Formulation and implementation of policies relating to the treatment and  
2 prevention of substance-related and addictive disorders in accordance with  
3 applicable state law; however, the provisions of this Section shall not apply to the  
4 Substance Abuse Prevention Program of the Department of Education and the  
5 Highway Safety Act of 1966 (P.L. 89-564) administered by the Highway Safety  
6 Commission of the Department of Public Safety and Corrections.

7 (2) Provision of all services to persons suffering from substance-related and  
8 addictive disorders which were formerly provided by the office of prevention and  
9 recovery from alcohol and drug abuse of the Louisiana Department of Health and  
10 such services otherwise required by law. The office may provide such services  
11 directly or through contracts with local, state, or federal agencies or private care  
12 providers.

13 (3) Administration of all programs relating to substance-related and  
14 addictive disorders listed in this Title.

15 (4) Coordination of all programs of all state departments relating to  
16 substance-related and addictive disorders, including assisting such agencies in the  
17 assessment and referral of persons subject to their jurisdiction. The office shall also  
18 establish and implement an employee assistance program on substance-related and  
19 addictive disorders for state employees.

20 (5)(a) Provision of assessment, referral, and treatment services for substance-  
21 related and addictive disorders to persons subject to the custody of state, municipal,  
22 or parish correctional institutions pursuant to agreements with such institutions and  
23 to persons subject to driving while intoxicated programs. In addition to any charges  
24 established by the department for treatment services by the office provided to  
25 persons subject to driving while intoxicated programs, the department may assess  
26 every patient in such program to whom the office provides treatment services a  
27 standard copayment fee of ten dollars per session subject to applicable federal  
28 regulations. A patient whose treatment is provided by the office through a private  
29 contractor shall not be assessed a copayment fee as provided above. Nothing in this

1 Paragraph shall be construed to prohibit such a private provider from assessing fees  
2 otherwise allowable under applicable federal and state laws. ~~The department shall~~  
3 ~~provide by rule for the implementation of such copayment not later than March 15,~~  
4 ~~1987.~~

5 ~~(b) Notwithstanding the provisions of Subparagraph (a) and otherwise~~  
6 ~~subject to its provisions, not later than September 1, 1987, the department, by rule,~~  
7 ~~shall increase the amount of the standard copayment fee to twenty dollars per~~  
8 ~~session.~~

9 ~~(c)~~ (b) The copayment provided for in this Paragraph shall be deposited in  
10 the state treasury pursuant to R.S. 39:82 and shall be accounted for by the  
11 commissioner of administration through appropriations control pursuant to R.S.  
12 39:334(B)(6). The commissioner of administration shall establish a separate cost  
13 center in the office of behavioral health and the office for citizens with  
14 developmental disabilities for revenue generated pursuant to this Paragraph. All  
15 funds not obligated shall revert to the state general fund at the end of the fiscal year.

16 (6) Maintenance of complete statistics and other relevant information on  
17 substance-related and addictive disorders within the state of Louisiana and provision  
18 of such information to interested agencies, groups, and individuals upon request.

19 (7) Receive any federal funds available under ~~Title 18, Title 19, and Title 20~~  
20 Title XVIII, Title XIX, and Title XX of the Social Security Act and any other funds  
21 specifically allocated for the prevention or treatment of substance-related and  
22 addictive disorders and to use any such funds received.

23 (8) Development of procedures and criteria for determining, and, in  
24 accordance with such procedures and criteria, determination of the ability of a patient  
25 or person receiving services, or his ~~legally responsible relative~~ legal guardian, to pay  
26 all or a part of the costs of the care or treatment of the patient or recipient. The  
27 department shall promulgate rules and regulations to provide for such determination  
28 and for the assessment of charges for care or treatment based on such determination.

1 (9) Provide a twenty-four-hour, toll-free telephone service to provide  
2 information regarding available services to assist with ~~compulsive or problem~~  
3 gambling behavior disorders.

4 (10) Require any patient who is given a urine drug screen in a state-operated  
5 outpatient or inpatient ~~alcohol or drug abuse~~ facility as part of his treatment by the  
6 office of behavioral health to pay a copayment of not more than twelve dollars per  
7 screen to the provider of the screen if he is able to pay such copayment based on a  
8 sliding fee scale. Such copayments shall be charged and collected by the provider.  
9 The ~~office of behavioral health~~ department shall promulgate rules and regulations to  
10 establish a sliding fee scale and criteria for determining a patient's ability to pay.  
11 Any patient eligible to receive Medicaid shall be exempt from the provisions of the  
12 copayment requirements. The copayments shall be exempt from the provisions of  
13 R.S. 49:971(A)(3) which provide that no state agency shall increase any existing fee  
14 or impose any new fee unless the fee increase or fee adoption is expressly authorized  
15 pursuant to a fee schedule established by statute or specifically authorized by federal  
16 law, rules, or regulations for the purpose of satisfying an express mandate of such  
17 federal law, rule, or regulation.

18 C. The services and programs as described in Subsections A and B of this  
19 Section shall be the responsibility of and shall be performed by the Jefferson Parish  
20 Human Services Authority for Jefferson Parish only. The department shall not be  
21 responsible for and shall not perform these services and programs in Jefferson  
22 Parish.

23 D. The services and programs as described in Subsections A and B of this  
24 Section, excluding the operation and management of any ~~in-patient~~ inpatient facility  
25 under the jurisdiction of the department, shall be the responsibility of and shall be  
26 performed by the Capital Area Human Services District for the parishes of  
27 Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, West Baton  
28 Rouge, and West Feliciana only. The department shall not be responsible for and  
29 shall not perform these services and programs in ~~said~~ such parishes provided that if

1 funds are not appropriated by the legislature for the district to provide these services  
2 and programs in ~~said~~ those parishes, the department shall continue to be responsible  
3 for and shall perform these services and programs in ~~said~~ those parishes.

4 E. The services and programs as described in Subsections A and B of this  
5 Section, excluding the operation and management of any inpatient facility for  
6 developmental disabilities and mental health under the jurisdiction of the department,  
7 shall be the responsibility of and shall be performed by the Florida Parishes Human  
8 Services Authority for the parishes of Livingston, St. Helena, St. Tammany,  
9 Tangipahoa, and Washington only. The department shall not be responsible for and  
10 shall not perform these services and programs in ~~said~~ such parishes provided that if  
11 funds are not appropriated by the legislature for the authority to provide these  
12 services and programs in ~~said~~ those parishes, the department shall continue to be  
13 responsible for and shall perform these services and programs in ~~said~~ those parishes.

14 F. The services and programs as described in Subsections A and B of this  
15 Section, excluding the operation and management of any inpatient facility under the  
16 jurisdiction of the department, shall be the responsibility of and shall be performed  
17 by the Metropolitan Human Services District for the parishes of Orleans, St. Bernard,  
18 and Plaquemines only. The department shall not be responsible for and shall not  
19 perform these services and programs in ~~said~~ such parishes provided that if funds are  
20 not appropriated by the legislature for the district to provide these services and  
21 programs in ~~said~~ those parishes, the department shall continue to be responsible for  
22 and shall perform these services and programs in ~~said~~ those parishes.

23 G. The services and programs as described in Subsections A and B of this  
24 Section, excluding the operation and management of any inpatient facility under the  
25 jurisdiction of the department, shall be the responsibility of and shall be performed  
26 by the South Central Louisiana Human Services District for the parishes of  
27 Assumption, Lafourche, St. Charles, St. James, St. John the Baptist, St. Mary, and  
28 Terrebonne only. The department shall not be responsible for and shall not perform  
29 these services and programs in ~~said~~ such parishes provided that if funds are not



1 appropriated by the legislature for the district to provide these services and programs  
2 in ~~said~~ those parishes, the department shall continue to be responsible for and shall  
3 perform these services and programs in ~~said~~ those parishes.

4 H. The services and programs as described in Subsections A and B of this  
5 Section, excluding the operation and management of any inpatient facility under the  
6 jurisdiction of the department, shall be the responsibility of and shall be performed  
7 by the Northeast Delta Human Services Authority for the parishes of Caldwell, East  
8 Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland,  
9 Tensas, Union, and West Carroll only. The department shall not be responsible for  
10 and shall not perform these services and programs in ~~said~~ such parishes provided that  
11 if funds are not appropriated by the legislature for the district to provide these  
12 services and programs in ~~said~~ those parishes, the department shall continue to be  
13 responsible for and shall perform these services and programs in ~~said~~ those parishes.

14 §772. Funding of regional addictive disorder services

15 A.(1) Funding for regional substance-related and addictive disorder services  
16 as defined in Subsection B of this Section shall be allocated to each region according  
17 to a formula developed by the assistant secretary of the office of behavioral health,  
18 promulgated in accordance with the Administrative Procedure Act, and evaluated  
19 each year to determine necessary changes.

20 (2) The formula developed by the office shall weigh certain elements in  
21 determining the formula. The elements and their assigned weights are as follows:

22 \* \* \*

23 (c) The estimated number of adults in a region needing treatment for  
24 substance-related and addictive disorders shall be assigned a weight of twenty  
25 percent.

26 \* \* \*



1 one of the following fields: substance-related and addictive disorders,  
2 developmental disabilities, mental health, or public health.

3 (b) The governing authority of each parish may submit three names to the  
4 governor for consideration as one of the governor's three appointees.

5 \* \* \*

6 §915. Districts; functions, powers, and duties

7 A. Pursuant to a contract with the department, all human services districts  
8 shall:

9 \* \* \*

10 (3) Perform community-based functions for the care, diagnosis, training,  
11 treatment, and education related to substance-related and addictive disorders,  
12 including but not limited to alcohol, drug abuse, or gambling.

13 \* \* \*

14 §931. Definitions; purposes

15 \* \* \*

16 B. The purposes of an intervention and stabilization unit include, without  
17 limitation, all of the following:

18 \* \* \*

19 (2) To diminish the need in a community for recurrent crisis services for  
20 persons suffering from mental illness, ~~substance abuse~~ a substance-related or  
21 addictive disorder, or both conditions.

22 \* \* \*

23 Section 3. R.S. 36:258(C) and 259(C)(10) and (16) are hereby amended and  
24 reenacted to read as follows:

25 §258. Offices; purposes and functions

26 \* \* \*

27 C. The consolidation of the administration of the offices for mental ~~illness~~  
28 health and of addictive disorders into the office of behavioral health will offer less  
29 redundancy and greater benefits to Louisiana citizens in need of these services. The

1 office of behavioral health shall perform the functions of the state which ~~provide~~  
 2 oversee services and continuity of care for the prevention, detection, treatment,  
 3 rehabilitation, and follow-up care of mental and emotional illness in Louisiana and  
 4 shall perform functions related to mental health. It shall also perform the functions  
 5 of the state relating to the care, training, treatment, and education of those suffering  
 6 from substance-related or addictive disorders and the prevention of substance-related  
 7 and addictive disorders and administer the substance-related and addictive disorders  
 8 programs in the state. It shall ~~administer~~ monitor residential and outpatient care  
 9 facilities ~~of the state~~ for persons ~~who are mentally ill~~ with mental illness, persons  
 10 suffering from substance-related or addictive disorders, and persons suffering from  
 11 co-occurring mental illness and substance-related or addictive disorders.

12 \* \* \*

13 §259. Transfer of agencies and functions to Louisiana Department of Health

14 C. The following agencies, as defined by R.S. 36:3, are transferred to and  
 15 hereafter shall be within the Louisiana Department of Health, as provided in Part II  
 16 of Chapter 22 of this Title:

17 \* \* \*

18 (10) ~~East Louisiana State Hospital~~ Eastern Louisiana Mental Health System  
 19 (Jackson)

20 \* \* \*

21 (16) The ~~mental~~ behavioral health facilities located in New Orleans, Baton  
 22 Rouge, Shreveport, Monroe, Lake Charles, Alexandria, Lafayette, Metairie,  
 23 Hammond, Natchitoches, Ruston, Chalmette, Houma, Harvey, Marksville, Bogalusa,  
 24 Pineville, Many, New Roads, Covington, Crowley, Donaldsonville, Plaquemine,  
 25 Raceland, Leesville, Norco, Mandeville, Ville Platte, Patterson, Tallulah, Columbia,  
 26 Oakdale, and any other ~~state-owned or operated~~ state-owned or state-operated  
 27 facilities as may be hereinafter established (~~R.S. 28:22.4-22.5~~ R.S. 28:22.5)

28 \* \* \*

1 Section 4. R.S. 40:1237.1(A)(9)(a)(ii)(introductory paragraph) and 2142(A) are  
2 hereby amended and reenacted to read as follows:

3 §1237.1. Definitions and general application

4 A. As used in this Part:

5 \* \* \*

6 (9)(a) "State health care provider" or "person covered by this Part" means:

7 \* \* \*

8 (ii) A person acting in a professional capacity in providing health care  
9 services, by or on behalf of the state, including but not limited to a physician,  
10 psychologist, coroner, and assistant coroner who is a licensed physician when acting  
11 solely in accordance with the ~~Mental~~ Behavioral Health Law as provided in R.S.  
12 28:50 et seq., provided that the premium costs of such malpractice coverage shall be  
13 the responsibility of the coroner's office, dentist, a licensed dietician or licensed  
14 nutritionist employed by, referred by, or performing work under contract for, a state  
15 health care provider or other person already covered by this Part, registered nurse,  
16 licensed practical nurse, nurse practitioner, clinical nurse specialist, pharmacist,  
17 optometrist, podiatrist, physical therapist, occupational therapist, licensed respiratory  
18 therapist, licensed radiologic technologist, licensed clinical laboratory scientist,  
19 social worker, hospital administrator, or licensed professional counselor, who is  
20 either:

21 \* \* \*

22 §2142. Geriatric hospitals and units

23 A. The department may establish and administer geriatric hospitals or units  
24 to receive and care for persons who are elderly or infirm who have been discharged  
25 by a hospital for persons with mental illness and for other persons who are elderly  
26 or infirm who are in need of nursing and medical care. Such hospitals or units may  
27 be established on sites designated by the department in quarters constructed or  
28 designated by the department, provided that no such geriatric hospital or unit may  
29 be established on any site located more than five air miles from the administrative

1 office of ~~East Louisiana State Hospital~~ Eastern Louisiana Mental Health System or  
2 more than one air mile from the administrative office of Central Louisiana State  
3 Hospital.

4 \* \* \*

5 Section 5. Code of Criminal Procedure Articles 648(A)(1) and (B)(1), 657,  
6 657.1(A)(4), and 657.2(A) are hereby amended and reenacted to read as follows:

7 Art. 648. Procedure after determination of mental capacity or incapacity

8 A. The criminal prosecution shall be resumed unless the court determines by  
9 a preponderance of the evidence that the defendant does not have the mental capacity  
10 to proceed. If the court determines that the defendant lacks mental capacity to  
11 proceed, the proceedings shall be suspended and one of the following dispositions  
12 made:

13 (1) If the court determines that the defendant's mental capacity is likely to  
14 be restored within ninety days by outpatient care and treatment at ~~an institution~~ a  
15 treatment facility as defined by ~~R.S. 28:2(29)~~ R.S. 28:2 while remaining in the  
16 custody of the criminal authorities, and if the person is not charged with a felony or  
17 a misdemeanor classified as an offense against the person and is considered by the  
18 court to be unlikely to commit crimes of violence, then the court may order  
19 outpatient care and treatment at any institution as defined by ~~R.S. 28:2(29)~~ R.S. 28:2.

20 \* \* \*

21 B.(1) In no instance shall such custody, care, and treatment exceed the time  
22 of the maximum sentence the defendant could receive if convicted of the crime with  
23 which he is charged. At any time after commitment and on the recommendation of  
24 the superintendent of the institution that the defendant will not attain the capacity to  
25 proceed with his trial in the foreseeable future, the court shall, within sixty days and  
26 after at least ten days notice to the district attorney, defendant's counsel, and the  
27 ~~Bureau of Legal Services~~ bureau of legal services of the Louisiana Department of  
28 Health, conduct a contradictory hearing to determine whether the mentally defective

1 defendant is, and will in the foreseeable future be, incapable of standing trial and  
2 whether he is a danger to himself or others.

3 \* \* \*

4 Art. 657. Discharge or release; hearing

5 After considering the report or reports filed pursuant to Articles 655 and 656,  
6 the court may either continue the commitment or hold a contradictory hearing to  
7 determine whether the committed person is no longer ~~mentally ill~~ has a mental  
8 illness as defined by ~~R.S. 28:2(14)~~ R.S. 28:2 and can be discharged, or can be  
9 released on probation, without danger to others or to himself as defined by ~~R.S.~~  
10 ~~28:2(3) and (4)~~ R.S. 28:2. At the hearing the burden shall be upon the state to seek  
11 continuance of the confinement by proving by clear and convincing evidence that the  
12 committed person is currently ~~both mentally ill~~ has a mental illness and is dangerous.  
13 After the hearing, and upon filing written findings of fact and conclusions of law, the  
14 court may order the committed person discharged, released on probation subject to  
15 specified conditions for a fixed or an indeterminate period, or recommitted to the  
16 state mental institution. A copy of the judgment and order containing the written  
17 findings of fact and conclusions of law shall be forwarded to the administrator of the  
18 forensic facility. Notice to the counsel for the committed person and the district  
19 attorney of the contradictory hearing shall be given at least thirty days prior to the  
20 hearing.

21 Art. 657.1. Conditional release; criteria

22 A. At any time the court considers a recommendation from the hospital-  
23 based review panel that the person may be discharged or released on probation, it  
24 may place the insanity acquittee on conditional release if it finds the following:

25 \* \* \*

26 (4) Conditional release will not present an undue risk of danger to others or  
27 self, as defined in ~~R.S. 28:2(3) and (4)~~ R.S. 28:2.

28 \* \* \*

1 Art. 657.2. Conditional release; additional requirements

2 A. Upon an application for conditional release of a person, who has been  
3 committed to a state hospital or other treatment facility pursuant to this Chapter upon  
4 the grounds that the adverse effects of a mental illness are in remission, and if after  
5 a hearing the court determines that the applicant will not likely be a danger to others  
6 or himself, as defined in ~~R.S. 28:2(3) and (4)~~ R.S. 28:2, if he is under supervision  
7 and his treatment is monitored in the community, the court shall not consider the  
8 applicant to be in stable remission from the adverse effects of a mental illness until  
9 the applicant is placed with an appropriate forensic conditional release program for  
10 at least one year but not more than five years.

11 \* \* \*

12 Section 6. Children's Code Article 1404(9) is hereby amended and reenacted to read  
13 as follows:

14 Art. 1404. Definitions

15 As used in this Title:

16 \* \* \*

17 (9) "Family psychiatric mental health nurse practitioner" means an individual  
18 who maintains the credentials as such and meets the requirements of a "psychiatric  
19 mental health nurse practitioner" as provided in ~~R.S. 28:2(21.2)~~ R.S. 28:2. Further,  
20 a family psychiatric mental health nurse practitioner shall have been engaged in  
21 clinical practice for not less than three years.

22 \* \* \*

23 Section 7. R.S. 28:2(11), 22.4, 22.10, 52.1, 95, 100.1, 182, Chapter 6 of Title 28 of  
24 the Louisiana Revised Statutes of 1950, comprised of R.S. 28:501 through 506, and Chapter  
25 7 of Title 28 of the Louisiana Revised Statutes of 1950, comprised of R.S. 28:561, are  
26 hereby repealed in their entirety.



---

**DIGEST**

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

---

HB 341 Engrossed

2017 Regular Session

Dustin Miller

**Abstract:** Amends laws relative to behavioral health and mental health to provide for current practice and for appropriate terminology.

Proposed law changes the heading of Title 28 of the La. Revised Statutes of 1950 from "Mental Health" to "Behavioral Health".

Proposed law defines "behavioral health" as a term which is used to refer to both mental health and substance use.

Proposed law amends present law relative to behavioral health, mental health, treatment of mental illness and substance-related and addictive disorders, and facilities for and providers of such treatment to reflect current healthcare practices.

Proposed law amends present law to institute new terminology and definitions of terms in laws pertaining to behavioral health and mental health.

Proposed law revises present law to reflect current healthcare practices and terminology relative to the following:

- (1) Healthcare services for persons with mental illness and substance-related and addictive disorders.
- (2) Care and treatment of persons with behavioral health needs, and facilities for and providers of such care and treatment.
- (3) Administration of state psychiatric hospitals.

Proposed law repeals present law providing for the following:

- (1) The defined term "informal voluntary admission" and its corresponding definition.
- (2) A behavioral health implementation advisory committee which was dissolved on July 1, 2011.
- (3) Delivery of inpatient and outpatient services at the New Orleans Adolescent Hospital by the Louisiana Department of Health.
- (4) Authorization for the governing body of a treatment facility to grant staff membership, specifically delineated institutional privileges, or both, to any duly licensed, certified, or registered healthcare provider.
- (5) A requirement that a reputable woman attendant accompany a female patient while traveling.
- (6) Authorization for the superintendent of a mental institution to release an improved patient on convalescent status subject to certain conditions.
- (7) Penalties for maltreatment of a patient of a mental institution.

- (8) The Uniform Act for the Extradition of Persons of Unsound Mind.
- (9) Authorization for the superintendents of state mental institutions, and other persons whom the superintendents may deputize, to make arrests for the violation of laws designed to protect the property and patients of the institutions.

Proposed law makes technical changes and corrections in present law relative to mental health and behavioral health.

(Amends R.S. 17:1607, the heading of Title 28 of the La. Revised Statutes of 1950, the heading of Chapter 1 of Title 28 of the La. Revised Statutes of 1950, R.S. 28:1, 2(1), (7), (9), (10), (14), (17), (20), (21), (26), (29), and (32)(a) and (b), 3, the heading of Part I-A of Chapter 1 of Title 28 of the La. Revised Statutes of 1950, R.S. 28:11, 12, 13(intro. para.), (1), and (3)-(5), 14, 15(A)(intro. para.), (3), (9), and (B), the heading of Part II of Chapter 1 of Title 28 of the La. Revised Statutes of 1950, R.S. 28:21(A) and (B), 21.1, 22(B)(intro. para.) and (C)(1), 22.5, 22.7(A), 22.9-25, 25.1(A), (C)(1)(a)(intro. para.) and (v), (b), (c), (2)(a)(iv), and (D), 25.2, the heading of Part III of Chapter 1 of Title 28 of the La. Revised Statutes of 1950, R.S. 28:50(1), (3), (4), and (6), 51(C), 51.1(A)(1), 52(A)-(C), (G)(2)(a), and (H)(2), 52.2, 52.3, 52.4(A)-(C), 53(A), (B)(1) and (2)(b) and (d)(intro. para.), (G)(2) and (6), (J), (K)(1), and (L)(1) and (3), 53.2(A)(intro. para.) and (1), (B), (C)(3), and (F), 54(A) and (D)(1)(intro. para.), and (a) and (3), 55(B), (E)(1) and (3)-(5), (F), (G), (I), and (J), 56(A)(1)(a) and (2)(b), (B), (C), and (G), 59(A), (C), and (D), 62, 64(F), 67(1) and (3), 69(A)(1), 70(A), (B)(intro. para.) and (1), and (E)(2)(f), 71(B), (C), (E), and (F), 72(A), 73, 91-93, 94(A), 96(A)-(C) and (E)-(H), 96.1(A), (B), and (D)-(F), 97-100, 101-145, 146(A), 147, the heading of Part VI of Chapter 1 of Title 28 of the La. Revised Statutes of 1950, R.S. 28:171(C)(4)(a) and (D)(5), 171.1(intro. para.) and (5)-(8), 172-184, 185(A), 200-202, 215.2(1)(intro. para.) and (2), 215.3(A) and (B), 215.4(A), the heading of Part X of Chapter 1 of Title 28 of the La. Revised Statutes of 1950, R.S. 28:221(1)-(6), (8), (9), and (11)-(13), 222-225, 227(A), (C), and (E), 228, 229(A) and (C), 230(A)(intro. para.) and (2)(a) and (d)(i), (B), and (C), 232, 233(2), 234(intro. para.) and (2), the heading of Chapter 5 of Title 28 of the La. Revised Statutes of 1950, R.S. 28:475, 476, 477(1) and (3)(a)(intro. para.) and (b), 478(A), the heading of Chapter 11 of Title 28 of the La. Revised Statutes of 1950, R.S. 28:771, 772(A)(1) and (2)(c) and (B), the heading of Chapter 15 of Title 28 of the La. Revised Statutes of 1950, R.S. 28:841(A), 911(1), 913(A)(2) and (3), 915(A)(3), and 931(B)(2), R.S. 36:258(C) and 259(C)(10) and (16), R.S. 40:1237.1(A)(9)(a)(ii)(intro. para.) and 2142(A), C.Cr.P. Arts. 648(A)(1) and (B)(1), 657, 657.1(A)(4), and 657.2(A), and Ch.C. Art. 1404(9); Adds R.S. 28:2(33)-(39); Repeals R.S. 28:2(11), 22.4, 22.10, 52.1, 95, 100.1, 182, 501-506, and 561)

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Health and Welfare to the original bill:

1. Restore present law which includes nursing homes within the definition of "treatment facility".
2. Restore present law which provides that in the case of any involuntary hospitalization or judicial commitment as a result of an emergency certificate, the commitment or hospitalization may be made to a facility specified in present law and proposed law.
3. Change the phrase "crime or misdemeanor" in present law and proposed law to "crime".

4. Make changes in clinical terminology as necessary for consistency with proposed law.
5. Make technical changes in present law and proposed law.