

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, 23, 25,

10 25.1(A), (C)(1)(a)(introductory paragraph) and (v), (b), (c), (2)(a)(iv), and (D), 25.2,

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

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

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

14 (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 181, 183, 184,
5 185(A), 200 through 202, 215.2(1)(introductory paragraph) and (2), 215.3(A) and
6 (B), 215.4(A), the heading of Part X of Chapter 1 of Title 28 of the Louisiana
7 Revised Statutes of 1950, R.S. 28:221(1) through (6), (8), (9), and (11) through (13),
8 222 through 225, 227(A), (C), and (E), 228, 229(A) and (C), 230(A)(introductory
9 paragraph) and (2)(a) and (d)(i), (B), and (C), 232, 233(2), 234(introductory
10 paragraph) and (2), the heading of Chapter 5 of Title 28 of the Louisiana Revised
11 Statutes of 1950, R.S. 28:475, 476, 477(1) and (3)(a)(introductory paragraph) and
12 (b), 478(A), the heading of Chapter 11 of Title 28 of the Louisiana Revised Statutes
13 of 1950, R.S. 28:771, 772(A)(1) and (2)(c) and (B), the heading of Chapter 15 of
14 Title 28 of the Louisiana Revised Statutes of 1950, R.S. 28:841(A), 911(1),
15 913(A)(2) and (3), 915(A)(3), and 931(B)(2), R.S. 36:258(C) and 259(C)(10) and
16 (16), R.S. 40:1237.1(A)(9)(a)(ii)(introductory paragraph) and 2142(A), Code of
17 Criminal Procedure Articles 648(A)(1) and (B)(1), 657, 657.1(A)(4), and 657.2(A),
18 and Children's Code Article 1404(9), to enact R.S. 28:2(33) through (39), and to
19 repeal 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, 23, 25, 25.1(A), (C)(1)(a)(introductory paragraph) and (v), (b), (c), (2)(a)(iv),
 2 and (D), 25.2, the heading of Part III of Chapter 1 of Title 28 of the Louisiana Revised
 3 Statutes of 1950, R.S. 28:50(1), (3), (4), and (6), 51(C), 51.1(A)(1), 52(A) through (C),
 4 (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 181, 183, 184,
 14 185(A), 200 through 202, 215.2(1)(introductory paragraph) and (2), 215.3(A) and (B),
 15 215.4(A), the heading of Part X of Chapter 1 of Title 28 of the Louisiana Revised Statutes
 16 of 1950, R.S. 28:221(1) through (6), (8), (9), and (11) through (13), 222 through 225,
 17 227(A), (C), and (E), 228, 229(A) and (C), 230(A)(introductory paragraph) and (2)(a) and
 18 (d)(i), (B), and (C), 232, 233(2), 234(introductory paragraph) and (2), the heading of Chapter
 19 5 of Title 28 of the Louisiana Revised Statutes of 1950, R.S. 28:475, 476, 477(1) and
 20 (3)(a)(introductory paragraph) and (b), 478(A), the heading of Chapter 11 of Title 28 of the
 21 Louisiana Revised Statutes of 1950, R.S. 28:771, 772(A)(1) and (2)(c) and (B), the heading
 22 of Chapter 15 of Title 28 of the Louisiana Revised Statutes of 1950, R.S. 28:841(A), 911(1),
 23 913(A)(2) and (3), 915(A)(3), and 931(B)(2) are hereby amended and reenacted and R.S.
 24 28:2(33) through (39) are hereby enacted to read as follows:

25 TITLE 28. ~~MENTAL~~ BEHAVIORAL HEALTH

26 CHAPTER 1. ~~MENTAL~~ BEHAVIORAL HEALTH LAW

27 PART I. SHORT TITLE, INTERPRETATIONS, AND DEFINITIONS

28 §1. Short title

29 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.

10 * * *

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)~~ (iv) Public or private general hospitals.
- 27 (vi) ~~(v)~~ (v) Public or private ~~mental~~ psychiatric hospitals.
- 28 (vii) ~~Detoxification centers.~~
- 29 (viii) ~~Substance abuse clinics.~~

1 ~~(ix) Substance abuse in-patient facility.~~

2 ~~(x) (vi) Forensic facilities.~~

3 (b) ~~Patients involuntarily hospitalized by emergency certificate or mental~~
4 ~~health treatment shall not be admitted to the facilities listed in Items (ii), (iii), (iv),~~
5 ~~(viii) or (x) of Subparagraph (a) of this Paragraph, except that patients~~ Clients
6 ~~in~~ custody of the Department of Public Safety and Corrections may be admitted to
7 forensic facilities by emergency certificate provided that judicial commitment
8 proceedings are initiated during the period of treatment at the forensic facility
9 authorized by emergency certificate. ~~Patients involuntarily hospitalized by~~
10 ~~emergency certificate for substance abuse treatment shall not be admitted to the~~
11 ~~facilities listed in Items (ii), (iii), (iv), or (x) of Subparagraph (a) of this Paragraph.~~

12 Judicial commitments, however, may be made to any of the ~~above~~ facilities listed in
13 Subparagraph (a) of this Paragraph except forensic facilities. However, in the case
14 of any involuntary hospitalization as a result of such emergency certificate for
15 ~~substance abuse~~ a substance-related or addictive disorder or in the case of any
16 judicial commitment as the result of ~~substance abuse~~ a substance-related or addictive
17 disorder, such commitment or hospitalization may be made to any of the ~~above~~
18 facilities listed in Subparagraph (a) of this Paragraph, except forensic facilities,
19 provided that such facility has a ~~substance abuse in-patient~~ substance-related or
20 addictive disorder inpatient operation maintained separate and apart from any mental
21 health ~~in-patient~~ inpatient operation at such facility.

22 * * *

23 (33)(a) "Addictive disorder" is a primary, chronic neurobiologic disease with
24 genetic, psychosocial, and environmental factors influencing its development and
25 manifestations. An addictive disorder is characterized by behaviors that include one
26 or more of the following:

27 (i) Impaired control over drug use.

28 (ii) Compulsive use.

29 (iii) Continued use despite harm.

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 (g) Sedatives, hypnotics, and anxiolytics.

2 (h) Stimulants, including amphetamine-type substances and cocaine.

3 (i) Tobacco.

4 (j) Other or unknown substances.

5 §3. Application of Chapter; costs

6 The provisions of this Chapter apply to persons who are suffering from
7 mental illness or ~~substance abuse~~ substance-related or addictive disorders. Nothing
8 in this Chapter referring to costs shall be construed to defer or prevent the care of a
9 person in a state ~~mental institution~~ psychiatric hospital or state treatment facility, nor
10 ~~their~~ his release therefrom.

11 * * *

12 PART I-A. ~~MENTAL AND~~ BEHAVIORAL HEALTH SERVICES

13 PRESERVATION ACT

14 §11. Short title

15 This Part shall be known and may be cited as the "~~Mental and Behavioral~~
16 Health Services Preservation Act".

17 §12. Legislative declaration of intent

18 It is the intent of the legislature to preserve vital state funding for ~~mental~~
19 behavioral health services to ensure delivery of and access to quality care for those
20 in desperate need of such services throughout the state. Many citizens in the state
21 have limited access to ~~mental and~~ behavioral health services because of the massive
22 cuts, both federal and state, in ~~mental and~~ behavioral health funding. The legislature
23 also finds that the provision of high-quality ~~mental and~~ behavioral health services,
24 regardless of setting, is of overriding importance. The state wholly supports efforts
25 to assist individuals suffering from serious and persistent mental illness, substance-
26 related or addictive disorders, or both in their efforts to participate fully in society.
27 As such, the ~~department~~ Louisiana Department of Health, referred to hereafter in this
28 Part as the "department", should streamline the delivery of ~~mental and~~ behavioral
29 health services through the prudent allocation of existing resources. The ~~Louisiana~~

1 ~~Department of Health~~ department will improve the safety and health of individuals,
2 families, and communities by providing leadership and establishing and participating
3 in partnerships for the continuation of ~~mental and~~ behavioral health services
4 throughout the state, including cooperative agreements, mergers, joint ventures, and
5 consolidations among ~~mental and~~ behavioral health care facilities. Consumer and
6 advocate participation in the process can only aid in the delivery of services to those
7 most in need. To improve the quality of services available and promote treatment,
8 which often involves the rehabilitation, recovery, and reintegration of persons
9 suffering from mental illness, substance-related or addictive disorders, or both, the
10 state should secure adequate funding for ~~mental and~~ behavioral health services and
11 require state departments to exercise fiscal responsibility in the allocation of these
12 resources.

13 §13. Management of ~~mental and~~ behavioral health resources

14 In the operational management of the office of behavioral health, the
15 department may guarantee the efficient and effective use and retention of the state's
16 scarce ~~mental and~~ behavioral health resources to adequately provide for the peace,
17 health, safety, and general welfare of the public, by ensuring the following:

18 (1) Accountability of efficient and effective services through state-of-the-art
19 quality and performance measures and statewide standards for monitoring quality of
20 service and performance and reporting of quality of service and performance
21 information. These processes may be designed so as to maximize the use of
22 available resources for direct care of people ~~with~~ who have a mental illness or a
23 substance-related or addictive disorder and to assure uniform data collection across
24 the state.

25 * * *

26 (3) Coordination of integration of services offered by department and ~~mental~~
27 ~~and~~ behavioral health communities, including the office of behavioral health and
28 ~~their~~ its respective contract providers, involved in the delivery of mental and
29 behavioral health treatment, along with local systems and groups, public and private,

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 Mental Health System, and the hospital at Pineville, known as the Central Louisiana
2 State Hospital, ~~and the hospital at Mandeville, known as the Southeast Louisiana~~
3 ~~Hospital, which~~ are designated as the hospitals for persons with who have a mental
4 ~~illness and addictive disorders~~ or a substance-related or addictive disorder until such
5 time as separate or other hospitals are established. The assistant secretary of the
6 office of behavioral health of the department may reorganize and consolidate the
7 administration of the hospitals or facilities, ~~including the Feliciana Forensic Facility,~~
8 ~~the Greenwell Springs Hospital, and the New Orleans Adolescent Hospital as~~
9 ~~necessary to comply with the provisions of the State Mental Health Plan.~~

10 B. The assistant secretary of the office of behavioral health of the department
11 may establish residential settings as satellite facilities to these hospitals from funds
12 presently allocated or to be allocated to these ~~institutions~~ hospitals by the legislature.

13 * * *

14 §21.1. ~~Alcoholism~~ Substance-related and addictive disorders; treatment in state
15 ~~supported~~ psychiatric hospitals

16 A. The Louisiana Department of Health is authorized to accept ~~as~~ indigent
17 patients ~~poor and destitute persons~~ suffering from ~~alcoholism~~ co-occurring
18 substance-related or addictive disorders and to give such patients the care and
19 treatment required ~~to restore them in mind and body.~~

20 B. The purpose of this Section is to recognize ~~alcoholism~~ substance-related
21 and addictive disorders as a sickness or disease and to place those suffering from it
22 in the same position relative to obtaining treatment as persons suffering from other
23 diseases.

24 §22. Crisis response system

25 * * *

26 B. Each human service district, authority, local governing entity, or region
27 of the Louisiana Department of Health shall develop a plan to do all of the following:

28 * * *

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 §25.1. Establishment of Feliciana Forensic Facility; authorization to establish
2 forensic facilities in New Orleans, Baton Rouge, Shreveport, and Alexandria

3 A. The forensic unit at ~~East Louisiana State Hospital~~ Eastern Louisiana
4 Mental Health System is hereby declared to be a separate and distinct facility from
5 East Louisiana State Hospital and hereafter shall be known as the Feliciana Forensic
6 Facility.

7 * * *

8 C.(1)(a) The ~~superintendent~~ director or administrator of any such facility
9 shall admit only those persons:

10 * * *

11 (v) Judicially committed to and transferred from any ~~state~~ hospital for
12 persons ~~with~~ who have a mental illness or who are inebriate substance-related or
13 addictive disorder.

14 (b) A transfer from any other ~~state~~ hospital shall be had only after the
15 director or administrator of the transferring facility, in concurrence with two
16 psychiatrists, has determined and certified in writing to such forensic facility that the
17 person to be transferred is dangerous to others and that the transferring facility
18 cannot adequately protect its staff and patients from such person.

19 (c) The decision to transfer shall not be made until after the person who is
20 proposed to be transferred has had an opportunity to be heard regarding his actions
21 upon which the proposed transfer is based by the director or administrator and two
22 concurring psychiatrists.

23 * * *

24 (2)(a) The administrator of the Feliciana Forensic Facility shall refuse
25 admission to any person if:

26 * * *

27 (iv) The person from a ~~state~~ hospital or correctional institution is not
28 accompanied by a summary of the facts presented at the hearing at which the person

1 objected to his transfer to the forensic facility and a summary of the person's
2 objections.

3 * * *

4 D. The department may contract with local law enforcement agencies and
5 the Department of Public Safety and Corrections to provide security personnel for
6 ~~mental health patients~~ clients placed in such forensic units, or other facilities to
7 which such ~~patients~~ clients may be temporarily referred for medical treatment.

8 §25.2. Granting of passes to ~~patients~~ Feliciana Forensic Facility clients

9 A. Notwithstanding any other provision of law to the contrary, including any
10 provision of the Code of Criminal Procedure, the administrator of the Feliciana
11 Forensic Facility, in his discretion, may grant any ~~patient~~ client committed to his
12 custody a pass or furlough from the facility, except those ~~patients~~ clients who are
13 under commitment to the Department of Public Safety and Corrections.

14 B. The administrator shall not grant any ~~patient~~ client a pass or furlough for
15 release from the facility except upon the recommendation of the ~~patient's~~ client's
16 treating psychiatrist and with prior approval of the committing court. The
17 administrator may impose conditions on a pass or furlough. Any pass or furlough
18 granted shall be for a fixed period of time.

19 * * *

20 PART III. EXAMINATION, ADMISSION, COMMITMENT, AND
21 TREATMENT OF PERSONS SUFFERING FROM MENTAL ILLNESS AND
22 ~~SUBSTANCE ABUSE~~ SUBSTANCE-RELATED OR ADDICTIVE DISORDERS

23 §50. Declaration of policy

24 The underlying policy of this Chapter is as follows:

25 (1) That persons ~~with~~ who have a mental illness and persons suffering from
26 ~~substance abuse~~ a substance-related or addictive disorder be encouraged to seek
27 voluntary treatment.

28 * * *

1 (3) That continuity of care for persons ~~with~~ who have a mental illness and
2 persons suffering from ~~substance abuse~~ a substance-related or addictive disorder be
3 provided.

4 (4) That mental health and ~~substance abuse~~ substance-related and addictive
5 disorder treatment services be delivered as near to the place of residence of the
6 person receiving such services as is reasonably possible and medically appropriate.

7 * * *

8 (6) That no person solely as a result of mental illness, ~~or alcoholism~~
9 substance-related or addictive disorder, or incapacitation by alcohol shall be confined
10 in any jail, prison, correctional facility, or criminal detention center. This shall not
11 apply to persons arrested, charged, or convicted under Title 14 of the Louisiana
12 Revised Statutes of 1950.

13 * * *

14 §51. Procedures for admission

15 * * *

16 C. The Louisiana Department of Health, through its hospitals, ~~mental~~
17 behavioral health clinics, and similar ~~institutions~~, ~~shall have the duty to assist~~
18 facilities, may direct petitioners and other persons ~~in the preparation of~~ to appropriate
19 resources regarding petitions for commitment, requests for protective custody orders,
20 and requests for emergency certificates; upon request of such persons.

21 §51.1. Treatment facility; staff membership and institutional privileges; certain
22 ~~health care~~ healthcare providers

23 A.(1) Notwithstanding any provision of the law to the contrary, the
24 governing body of a treatment facility, as defined in R.S. 28:2, may grant staff
25 membership, specifically delineated institutional privileges, or both, to any duly
26 licensed, certified, or registered ~~health care~~ healthcare provider in accordance with
27 the needs and bylaws of the treatment facility, including but not limited to a

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 there is substantial evidence that the patient is not in compliance with the order and
2 there are reasonable grounds to believe that he poses a significant risk of being a
3 danger to self or others.

4 C. The order for custody shall be in writing, in the name of the state of
5 Louisiana, signed by the district judge or parish coroner, and shall state the
6 following:

7 * * *

8 (3) A description of the acts or threats which have led to the belief that the
9 person is ~~mentally ill~~ has a mental illness or is suffering from substance abuse a
10 substance-related or addictive disorder and is in need of immediate hospitalization
11 to protect the person or others from physical harm, ~~and~~.

12 * * *

13 F. Any person who is found guilty of executing a statement that another
14 person is ~~mentally ill~~ has a mental illness or is suffering from substance abuse a
15 substance-related or addictive disorder and is in need of immediate treatment to
16 protect the person or others that the affiant knows or should know is false may be
17 imprisoned, with or without hard labor, for not more than one year, or fined not more
18 than one thousand dollars.

19 * * *

20 §54. Judicial commitment; procedure

21 A. Any person of legal age may file with the court a petition which asserts
22 his belief that a person is suffering from mental illness which contributes or causes
23 that person to be a danger to himself or others or to be gravely disabled, or is
24 suffering from ~~substance abuse~~ a substance-related or addictive disorder which
25 contributes or causes that person to be a danger to himself or others or to be gravely
26 disabled and may thereby request a hearing. The petition may be filed in the judicial
27 district in which the respondent is confined, or if not confined, in the judicial district
28 where he resides or may be found. The hearing shall not be transferred to another
29 district except for good cause shown. A petitioner who is unable to afford an

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 (3) If the respondent refuses to be examined by the ~~court appointed~~ court-
2 appointed physician as herein provided, or if the judge, after reviewing the petition
3 and an affidavit filed pursuant to R.S. 28:53.2 or the report of the treating physician
4 or the ~~court appointed~~ court-appointed physician, finds that the respondent is
5 ~~mentally ill~~ has a mental illness or is suffering from substance abuse a substance-
6 related or addictive disorder and is in need of immediate hospitalization to protect
7 the person or others from physical harm, or that the respondent's condition may be
8 markedly worsened by delay, then the court may issue a court order for custody of
9 the respondent, and a peace officer shall deliver the respondent to a treatment facility
10 designated by the court. The court shall also issue an order to the treatment facility
11 authorizing detention of the respondent until the commitment hearing is completed,
12 unless he is discharged by the director or administrator.

* * *

14 §55. Judicial hearings

* * *

16 B. The court shall provide the respondent a reasonable opportunity to select
17 his own counsel. In the event the respondent does not select counsel and is unable
18 to pay for counsel, or in the event counsel selected by the respondent refuses to
19 represent ~~said~~ the respondent or is not available for such representation, then the
20 court shall appoint counsel for the respondent provided by the mental health
21 advocacy service. Reasonable compensation of appointed counsel shall be
22 established by the court and may be ordered paid by the respondent or the petitioner
23 in the discretion of the court if either is found financially capable. If it is determined
24 by the court that the costs shall not be borne by the respondent or the petitioner, then
25 compensation to the attorney shall be paid from funds appropriated to the judiciary.

* * *

27 E.(1) If the court finds by clear and convincing evidence that the respondent
28 is dangerous to self or others or is gravely disabled, as a result of ~~substance abuse~~ a
29 substance-related or addictive disorder or mental illness, it shall render a judgment

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.

* * *

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.

* * *

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.

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

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~~ in R.S. 28:2 shall have ready access to view and copy
18 all mental health and developmental disability records pertaining to his client, unless
19 the client objects. If the patient or respondent later retains a private attorney to
20 represent him, the mental health advocacy service shall destroy all copies of records
21 pertaining to his case.

22 (2) Any attorney representing a person ~~with~~ who has a mental illness or a
23 respondent as defined ~~herein~~ in R.S. 28:2 shall have the opportunity to consult with
24 his client whenever necessary in the performance of his duties. A treatment facility
25 shall provide adequate space and privacy for the purpose of attorney-client
26 consultation.

27 * * *

1 §67. Petition to the court

2 A petition for an order authorizing involuntary outpatient treatment may be
3 filed in the judicial district in the parish in which the patient is present or reasonably
4 believed to be present. A petition to obtain an order authorizing involuntary
5 outpatient treatment may be initiated by one of the following persons:

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

8 * * *

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

13 * * *

14 §69. Procedure

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

26 * * *

27 §70. Written treatment plan for involuntary outpatient treatment

28 A. The court shall not order involuntary outpatient treatment unless an
29 examining physician, psychiatric mental health nurse practitioner, or psychologist

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

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

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

24 * * *

25 E.

26 * * *

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

28 * * *

1 (f) ~~Alcohol or substance abuse~~ Substance-related or addictive disorder
2 treatment.

3 * * *

4 §71. Disposition

5 * * *

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

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

27 * * *

1 E. If the petitioner is the director or administrator of a hospital that operates
 2 an involuntary outpatient treatment program, the court order shall direct the hospital
 3 to provide all categories of involuntary outpatient treatment services. If the hospital
 4 does not have such a program or if the patient is discharged to a different ~~district or~~
 5 ~~region~~ local governing entity, or if the director of the ~~human service district or~~
 6 ~~regional manager for the Louisiana Department of Health, office of behavioral~~
 7 ~~health,~~ local governing entity has filed the petition and certified services are
 8 available, the court order shall require the appropriate director ~~or regional manager~~
 9 to provide for all categories of involuntary outpatient treatment services.

10 F. The director ~~or regional manager~~ shall apply for court approval prior to
 11 instituting a proposed material change in the involuntary outpatient treatment order
 12 unless such change is contemplated in the order. For purposes of this Subsection, a
 13 material change shall mean an addition or deletion of a category of involuntary
 14 outpatient treatment service, or any deviation without the consent of the patient from
 15 the terms of an existing order relating to the administration of psychotropic drugs,
 16 or a change of residence from one ~~district or region~~ local governing entity to another.
 17 Any application for court approval shall be served upon all persons required to be
 18 served with notice of a petition for an order authorizing involuntary outpatient
 19 treatment. Either party may move for a hearing on the application. If a motion is not
 20 filed within five days from the date the application is filed, the court shall grant the
 21 application.

* * *

§72. Application for additional periods of treatment

24 A. The court order for outpatient treatment shall expire at the end of the
 25 specified period unless a petition or motion for an extension has been filed. If the
 26 director ~~or regional manager~~ determines that a patient requires further involuntary
 27 outpatient treatment, he shall file a petition or motion for continued treatment prior
 28 to the expiration of the initial involuntary outpatient treatment ordered by the court.
 29 If a patient has been ordered to receive outpatient treatment for four consecutive six-

1 month to one-year periods, the period of any subsequent order may exceed one year
2 but shall not exceed two years.

3 * * *

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

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

8 * * *

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

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

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

15 ~~Upon delivering the patient, the attendant shall indorse that fact upon a~~
16 ~~warrant and the superintendent receiving the patient shall sign the warrant in~~
17 ~~acknowledgment.~~

18 §92. Transfer of patients from military establishments

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

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

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

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

5 B. The transfer shall be by order of the committing court or by order of the
6 ~~superintendent~~ director or administrator of the ~~mental~~ psychiatric hospital in which
7 the veteran is confined or by order of the division if the veteran is on leave.

8 §94. Transfer of patients between ~~institutions~~ psychiatric hospitals

9 A.(1) Except as otherwise provided in this Subsection, the department may
10 transfer any patient from one ~~mental institution~~ psychiatric hospital to another if
11 applicable eligibility criteria are met. Moreover, the ~~superintendent of an institution~~
12 administrator of a psychiatric hospital may request the department to transfer a
13 patient when he believes that a transfer is necessary.

14 ~~(1)~~ (2) A patient may be transferred to or from a private ~~mental institution~~
15 psychiatric hospital only upon the joint application of the ~~superintendent~~ director or
16 administrator of that ~~institution~~ hospital and of the legal ~~or natural~~ guardian or the
17 person liable for the support of the patient. However, no private ~~mental institution~~
18 psychiatric hospital shall be obligated to retain a patient because of the refusal to
19 sign the application by the legal guardian or the person liable for support.

20 ~~(2)~~ (3) A person under sentence or acquitted of a crime ~~or misdemeanor~~ on
21 the ground of mental illness or ~~defect~~ disability shall be transferred only upon
22 authority of the committing court.

23 ~~(3)~~ (4) A voluntary patient shall be transferred only with his written consent.

24 * * *

25 §96. Discharge by the ~~superintendent~~ administrator or treating physician

26 A. Except as otherwise provided in this Section, the ~~superintendent~~
27 administrator or treating physician may discharge any patient committed to ~~his~~
28 ~~institution~~ a psychiatric hospital if he believes that the patient has sufficiently
29 recovered and that no harm will result from his discharge.

1 B. The ~~superintendent~~ administrator or treating physician shall as frequently
2 as practicable, but not less often than every six months, examine or cause to be
3 examined every patient and may discharge the patient and immediately make a report
4 thereof to the ~~division~~ court when necessary or appropriate.

5 C. A ~~patient~~ client committed in accordance with the provisions of Article
6 ~~267~~ 648 of the Code of Criminal Procedure shall be discharged only in the manner
7 provided in that Article.

8 * * *

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

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

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

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

25 §96.1. Discharge by the ~~superintendent~~ director or administrator of a private ~~mental~~
26 psychiatric hospital

27 A. Except as otherwise provided in this Section the ~~superintendent~~ director,
28 administrator, or head of a private ~~mental~~ psychiatric hospital may discharge any
29 patient committed to his ~~institution~~ hospital only on the certificate of either two

1 physicians, or one physician and one psychologist, medical psychologist, or
2 psychiatric mental health nurse practitioner stating that the patient has sufficiently
3 recovered and that no harm will result from his discharge.

4 B. A patient committed in accordance with the provisions of Article ~~267~~ 648
5 of the Code of Criminal Procedure shall be discharged only in the manner provided
6 in that Article.

7 * * *

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

12 E. A patient committed to a private ~~mental~~ psychiatric hospital who has
13 shown dangerous tendencies shall be discharged only upon the certificate of either
14 two physicians, or one physician and one psychologist, medical psychologist, or
15 psychiatric mental health nurse practitioner after an examination, and after sufficient
16 guarantee has been provided of proper supervision of the patient by a reputable
17 person who is approved by the court.

18 F. A ~~mental defective who~~ patient who has a mental illness and no longer
19 requires treatment may be discharged on the certificate of either two physicians, or
20 one physician and one psychologist, medical psychologist, or psychiatric mental
21 health nurse practitioner and with the approval of the committing court if the
22 commitment was by criminal court order.

23 §97. Discharge by the department

24 The department may order the examination and the discharge of any patient,
25 except those committed in accordance with R.S. 28:59 and under Title XXI relating
26 to insanity proceedings of the Code of Criminal Procedure, if as a result of the
27 examination it believes that the patient should no longer be detained. When a
28 discharge in accordance with this Section is contemplated, the department shall give
29 notice to the ~~superintendent~~ director or administrator and to the person who ~~caused~~

1 filed the original petition causing the patient to be committed, in order that they may
2 state their reasons why the patient should be detained for further treatment.

3 §98.2. Immunity of superintendent and ~~mental~~ psychiatric hospital

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

15 §99. Discharge by lapse of time

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

22 §100. Leaves of absence for patients

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

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

1 Mental defectives and epileptics, whose leaves are indefinite, can be returned
2 at any time until formal discharge, but other patients shall renew their leaves yearly
3 or are liable to become automatically discharged in accordance with R.S. 28:99.

4 * * *

5 §101. Boarding out patients

6 A. Under conditions indicating rehabilitation possibilities, the ~~superintendent~~
7 director or administrator, with the consent of the department, may permit patients to
8 board out with responsible persons who may be paid for their care of the patients.
9 This Section does not apply to ~~patients~~ clients committed in accordance with R.S.
10 28:59.

11 A. ~~B.~~ In determining the amount to be paid, the value of any services to be
12 rendered by the patient while boarding shall be considered and should the services
13 of the patient justify, he shall be paid a sum in excess of his board to compensate him
14 for these services.

15 B. ~~C.~~ The ~~superintendent~~ director or administrator may require the person
16 applying to board a patient to give bond with security for the proper care of the
17 patient.

18 C. ~~D.~~ Agents of the ~~institution~~ state psychiatric hospital shall visit frequently
19 visit every boarding patient. If it is determined that the patient is not being cared for
20 properly, the ~~superintendent~~ director or administrator shall recall him to the
21 institution state psychiatric hospital with the consent of the department.

22 §102. ~~Return~~ State psychiatric hospitals; return of escaped patients

23 Any escaped patient from a state psychiatric hospital shall be returned at the
24 expense of the ~~institution~~ state psychiatric hospital from which he ~~escaped~~ left
25 without authorization unless his discharge is granted before his return.

26 §103. Deportation of nonresident patients

27 A. The department or executive authority of this state may return any
28 nonresident patient to the state or ~~county~~ country of which he is a legal resident.
29 Pending the return, the department shall provide necessary temporary care for the

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 means treatment of mental illness with ~~psychoactive~~ psychotropic medication,
2 admission to and retention in a treatment facility, ~~and~~ or outpatient services.

3 However, "~~mental~~ behavioral health treatment" shall not include admission to or
4 retention in a ~~mental health~~ treatment facility for a period in excess of fifteen days.

5 (6) "Outpatient services" means treatment for a mental ~~or emotional~~ illness
6 or a substance-related or addictive disorder that is obtained on an outpatient basis.

7 * * *

8 (8) "Principal" means an individual who has executed an advance directive
9 for ~~mental~~ behavioral health treatment.

10 (9) "Provider" means a ~~mental~~ behavioral health treatment provider.

11 * * *

12 (11) "Representative" means a competent adult validly appointed under R.S.
13 28:223 to make ~~mental~~ behavioral health treatment decisions for a principal and also
14 means an alternative representative.

15 (12) "Treating physician" means the physician who has primary
16 responsibility for the ~~mental~~ behavioral health treatment of the principal.

17 (13) "Treatment facility" shall have the same meaning as provided in ~~R.S.~~
18 ~~28:2(29)(a)~~ R.S. 28.2.

19 §222. Individuals who may make an advance directive for ~~mental~~ behavioral health
20 treatment; period of validity

21 A. An adult who is not incapable may make an advance directive for ~~mental~~
22 behavioral health treatment. The preferences or instructions may include consent to
23 or refusal of ~~mental~~ behavioral health treatment.

24 B. An advance directive for ~~mental~~ behavioral health treatment shall
25 continue in effect for a period of five years or until revoked, whichever occurs first.
26 The authority of a named representative and any alternative representative named in
27 the advance directive for ~~mental~~ behavioral health treatment shall continue in effect
28 as long as the advance directive appointing the representative is in effect or until the
29 representative has withdrawn.

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 CHAPTER 5. GROUP HOME FOR PERSONS
 2 ~~WITH~~ WHO HAVE MENTAL ILLNESS OR
 3 DEVELOPMENTAL DISABILITIES ACT

4 §475. Short title

5 This Chapter shall be known and may be cited as the "Group Home for
6 Persons ~~with~~ who have Mental Illness or Developmental Disabilities Act".

7 §476. Declaration of policy

8 The legislature hereby declares that it is the policy of this state as declared
9 and established in this Title, particularly in the Developmental Disability Law and
10 the ~~Mental~~ Behavioral Health Law, that persons with mental or physical disabilities
11 are entitled to live in the least restrictive environment in their own community and
12 in normal residential surroundings and should not be excluded therefrom because of
13 their disabilities. The legislature further declares that the provisions of this Chapter
14 are intended to secure to all of the citizens of this state the right to individual dignity
15 as provided in Article I, Section 3 of the Constitution of Louisiana and to protect the
16 rights and promote the happiness and general welfare of the people of this state. To
17 that end, the legislature hereby declares that the provisions of this Chapter are an
18 exercise of the police power reserved to the state by Article I, Section 4 and Article
19 VI, Section 9(B) of the Constitution of Louisiana.

20 §477. Definitions

21 As used in this Chapter, unless otherwise clearly indicated, these words and
22 phrases have the following meanings:

23 (1) "Community home" means a facility certified, licensed, or monitored by
24 the Louisiana Department of Health to provide resident services and supervision to
25 six or fewer persons ~~with~~ who have mental illness or developmental disabilities.
26 Such facility shall provide supervisory personnel in order to function as a single
27 family unit but not to exceed two live-in persons.

28 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored
are additions.

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~~ have 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 B. "Regional substance-related and addictive disorder services" shall include
2 all treatment and ~~prevention/education~~ prevention or education services provided in
3 each region.

4 * * *

5 CHAPTER 15. ~~COMPULSIVE AND PROBLEM~~ GAMBLING DISORDERS

6 §841. Office of behavioral health; functions related to ~~compulsive and problem~~
7 gambling disorders

8 A. The office of behavioral health of the Louisiana Department of Health
9 shall establish a program to provide information and referral services related to
10 ~~compulsive or problem~~ gambling disorders. The program may include treatment
11 services and shall include provision of a twenty-four hour, toll-free telephone
12 service, operated by persons with knowledge of programs and services available to
13 assist persons suffering from ~~compulsive or problem gambling behavior~~ gambling
14 disorders.

15 * * *

16 §911. Definitions

17 As used in this Chapter and unless the context clearly requires otherwise:

18 (1) "Behavioral health services" means community-based mental health and
19 substance-related and addictive disorders services.

20 * * *

21 §913. Governing board; membership; appointment; terms; compensation

22 A.

23 * * *

24 (2) The parish appointees shall be persons with professional experience or
25 parents, consumers, or advocates in the fields of substance-related and addictive
26 disorders, developmental disabilities, mental health, or public health.

27 (3)(a) The governor's three appointees shall be one member with experience
28 in the financial operation of a business enterprise, one member who is a parent,
29 consumer, or caregiver of a consumer of services, and one member who represents

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

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

16 * * *

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

19 * * *

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

27 * * *

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~~ director or administrator of the treatment facility
25 that the defendant will not attain the capacity to proceed with his trial in the
26 foreseeable future, the court shall, within sixty days and after at least ten days notice
27 to the district attorney, defendant's counsel, and the ~~Bureau of Legal Services~~ bureau
28 of legal services of the Louisiana Department of Health, conduct a contradictory
29 hearing to determine whether the ~~mentally defective~~ defendant is, and will in the

1 foreseeable future be, incapable of standing trial and whether he is a danger to
2 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 Reengrossed

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 La. 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 Ch. 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 Ch. 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 Ch. 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, 23, 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 Ch. 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 Ch. 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), 172-181, 183, 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 Ch. 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 Ch. 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 Ch. 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 Ch. 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.

The House Floor Amendments to the engrossed bill:

1. Change "superintendent of the institution" to "director or administrator of the treatment facility" in a provision of present law for consistency with terminology changes instituted by proposed law.
2. Delete "mentally defective" in a provision of present law for consistency with terminology changes instituted by proposed law.
3. Make technical changes.