

2021 Regular Session

HOUSE BILL NO. 79

BY REPRESENTATIVE MCMAHEN

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

MENTAL HEALTH: Provides relative to treatment facilities for mental health patients

1 AN ACT

2 To amend and reenact R.S. 28:2(39)(a)(introductory paragraph) and 53(F), relative to
3 treatment facilities for mental health patients; to provide a definition; to provide for
4 the transport of a patient to a treatment facility; to provide for the patient's rights; and
5 to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 28:2(39)(a)(introductory paragraph) and 53(F) are hereby amended
8 and reenacted to read as follows:

9 §2. Definitions

10 * * *

11 (39)(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 has a mental illness or person who is suffering from a substance-related or
14 addictive disorder is received or detained as a patient or client. The term includes
15 Veterans Administration and public health hospitals and forensic facilities.
16 "Treatment facility" includes but is not limited to the following, and shall be selected
17 with consideration of first, medical suitability; second, least restriction of the
18 person's liberty; third, nearness to the patient's usual residence; ~~and~~ fourth, financial

1 or other status of the patient; and fifth, patient's preference, except that such
2 considerations shall not apply to forensic facilities:

3 * * *

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

5 * * *

6 F. (1) An emergency certificate shall constitute legal authority to transport
7 a patient to a treatment facility pursuant to R.S. 28:2(39)(a), respect the patient's
8 right to be involved with care decisions to the extent necessary, and permit the
9 director of such treatment facility to detain the patient for diagnosis and treatment
10 for a period not to exceed fifteen days, and to return the patient to the facility if he
11 is absent with or without permission during authorized periods of detention.

12 (2) If necessary, peace officers shall apprehend and transport, or ambulance
13 services, under appropriate circumstances, may locate and transport, a patient on
14 whom an emergency certificate has been completed to a treatment facility at the
15 request of either the director of the facility, the certifying physician, physician
16 assistant when acting in accordance with their respective clinical practice guidelines,
17 psychiatric mental health nurse practitioner, other nurse practitioner who acts in
18 accordance with a collaborative practice agreement and receives verbal approval for
19 executing the certificate from his collaborating physician, or psychologist, the
20 patient's next of kin, the patient's curator, or the agency legally responsible for his
21 welfare.

22 (3) In the case of an emergency certificate issued pursuant to an examination
23 conducted by telemedicine pursuant to Paragraph (B)(1) of this Section, or where the
24 valid original is not provided to the transporter, a copy transmitted by facsimile or
25 other electronic device shall be sufficient authority for the peace officer or
26 ambulance worker to transport the patient to a treatment facility and for the director
27 to accept such patient. The psychiatrist shall cause the original certificate to be
28 deposited in the United States mail properly addressed to the director of the
29 treatment facility by the next business day following the date of examination. The

1 director of the treatment facility shall notify the patient's nearest relative, if known,
 2 or designated responsible party, if any, in writing, of the patient's admission by
 3 emergency certificate as soon as reasonably possible.

4 * * *

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 79 Original

2021 Regular Session

McMahon

Abstract: Provides for the selection of a treatment facility by a patient and the protection of a patient's right to receive treatment.

Present law provides that a treatment facility shall be selected in the following order of priority:

- (1) Medical suitability.
- (2) Least restriction of the person's liberty.
- (3) Nearness to the patient's usual residence.
- (4) Financial or other status of the patient.

Proposed law retains present law and adds that in the selection of the treatment facility a patient's preference shall be the fifth consideration.

Present law provides that a patient may be admitted by an emergency certificate to be diagnosed and treated.

Proposed law retains present law and adds that the emergency certificate shall allow legal authority for a patient to be transported to a treatment facility pursuant to present law and the transport shall be in line with the patient's rights to receive care.

(Amends R.S. 28:2(39)(a)(intro. para.) and 53(F))