



1 their application immediately accessible in certain  
2 situations.

3 *Be it enacted by the Legislature of West Virginia:*

4 That §27-4-1 of the Code of West Virginia, 1931, as amended,  
5 be amended and reenacted to read as follows:

6 **ARTICLE 4. VOLUNTARY HOSPITALIZATION.**

7 **§27-4-1. Authority to receive voluntary patients.**

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

12 ~~(a)~~ (1) ~~Over eighteen~~ Eighteen years of age or older who is  
13 mentally ill, intellectually disabled or addicted or who has  
14 manifested symptoms of mental illness, intellectual disability or  
15 addiction and who makes application for hospitalization; or

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

23 ~~(1)~~ (A) By the parents of such person;

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

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

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

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

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

13       (b) For any application for hospitalization made pursuant to  
14 subdivision (2) of subsection (a) of this section, the person  
15 making the application shall transport the minor to the mental  
16 health facility, except as provided in this subsection. If the  
17 minor is violent or combative or the parent or guardian faces other  
18 circumstances that make the parent or guardian unable to transport  
19 the minor to the mental health facility, the parent or guardian may  
20 file an affidavit with the circuit court of the county in which the  
21 minor resides or of the county in which the minor may be found.  
22 The parent or guardian shall give information and state facts in  
23 the affidavit as may be required by the form provided for this

1 purpose by the Supreme Court of Appeals. Upon ex parte review of  
2 the affidavit, a mental hygiene commissioner or circuit court  
3 judge, or when none are available the magistrate designated  
4 pursuant to article five of this chapter, may determine that the  
5 parent or guardian is unable to transport the minor for voluntary  
6 hospitalization and, if such a determination is made, shall enter  
7 an order requiring the sheriff of that county to transport the  
8 minor to the mental health facility.

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

13 (d) If the candidate for voluntary admission is a minor who is  
14 fourteen years of age or older, the admitting health care facility  
15 shall determine if the minor consents to or objects to his or her  
16 admission to the facility. If the parent or guardian who requested  
17 the minor's admission under this section revokes his or her consent  
18 at any time, or if the minor fourteen years of age or older objects  
19 at any time to his or her further treatment, the minor shall be  
20 discharged within ninety-six hours to the custody of the consenting  
21 parent or guardian, unless the chief medical officer of the mental  
22 health facility files a petition for involuntary hospitalization,  
23 pursuant to the provisions of section three of this article, or the

1 minor's continued hospitalization is authorized as an involuntary  
2 hospitalization pursuant to the provisions of article five of this  
3 chapter: *Provided, That, if the ninety-six hour time period would*  
4 *result in the minor being discharged and released on a Saturday, a*  
5 *Sunday or a holiday on which the court is closed, the period of*  
6 *time in which the patient shall be released by the facility shall*  
7 *be extended until the next day which is not a Saturday, Sunday or*  
8 *legal holiday on which the court is lawfully closed.*

9       (e) In the event a person under the age of eighteen is  
10 voluntarily hospitalized pursuant to this section and is, or those  
11 legally obligated to pay for the minor's care are, unable to pay  
12 for the hospitalization and has no applicable insurance coverage,  
13 including, but not limited to, private insurance or Medicaid, the  
14 Secretary of the Department of Health and Human Resources shall  
15 transfer funds for the purpose of reimbursing the mental health  
16 facility for services provided in an amount not to exceed the cost  
17 of involuntary hospitalization of an individual. Nothing in this  
18 section may be construed to obligate the State of West Virginia for  
19 costs of voluntary hospitalizations of persons eighteen years of  
20 age or older permitted by the provisions of this section.

21       (f) For the purposes of this section, all mental health  
22 facilities in this state shall make a blank copy of their  
23 application for admission immediately available to any person or

1 entity who requests the application. The application is  
2 "immediately available" if it is promptly sent by facsimile or e-  
3 mail to the requesting person or entity, or available through other  
4 immediate electronic means, such as posting the blank application  
on the facility's public website.

NOTE: The purpose of this bill is to clarify the process for voluntary commitment and transport of juveniles in need of mental health or addiction treatment and provide for payment of juvenile mental health treatment when the individual is not covered by insurance.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.