

E N G R O S S E D
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 481

(By Senators Palumbo, Unger, Jenkins and Tucker)

[Originating in the Committee on Health and Human Resources;
reported March 29, 2013.]

A BILL to amend and reenact §27-4-1 of the Code of West Virginia, 1931, as amended, relating to juvenile mental health, intellectual disability and addiction; permitting acceptance of a notarized application in lieu of in-person application for certain voluntary hospitalization; allowing use of article five, chapter twenty-seven of said code for juveniles in certain situations; requiring parents or guardians to transport minors for voluntary hospitalization; creating exceptions to that requirement by affidavit to circuit court, mental hygiene

commissioner or magistrate court; requiring transfer by county sheriff upon order of circuit court, mental hygiene commissioner or magistrate court; and requiring mental health facilities to make their application immediately accessible in certain situations.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 4. VOLUNTARY HOSPITALIZATION.

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

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

5 (a) (1) ~~Over eighteen~~ Eighteen years of age or older who
6 is mentally ill, intellectually disabled or addicted or who has
7 manifested symptoms of mental illness, intellectual disability
8 or addiction and who makes application for hospitalization;
9 or

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

18 (1) (A) By the parents of such person;

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

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

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

24 (5) (E) If the subject person under eighteen years of age
25 is an emancipated minor, the admission of that person as a
26 voluntary patient shall be conditioned upon the consent of the
27 patient.

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

33 (b) For any application for hospitalization made pursuant
34 to subdivision (2) of subsection (a) of this section, the person
35 making the application shall transport the minor to the mental
36 health facility, except as provided in this subsection. If the
37 minor is violent or combative or the parent or guardian faces
38 other circumstances that make the parent or guardian unable
39 to transport the minor to the mental health facility, the parent
40 or guardian may file an affidavit with the circuit court of the
41 county in which the minor resides or of the county in which
42 the minor may be found. The parent or guardian shall give
43 information and state facts in the affidavit as may be required
44 by the form provided for this purpose by the Supreme Court
45 of Appeals. Upon ex parte review of the affidavit, a mental
46 hygiene commissioner or circuit court judge, or when none

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47 are available the magistrate designated pursuant to article
48 five of this chapter, may determine that the parent or
49 guardian is unable to transport the minor for voluntary
50 hospitalization and, if such a determination is made, shall
51 enter an order requiring the sheriff of that county to transport
52 the minor to the mental health facility.

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

57 (d) If the candidate for voluntary admission is a minor
58 who is fourteen years of age or older, the admitting health
59 care facility shall determine if the minor consents to or
60 objects to his or her admission to the facility. If the parent or
61 guardian who requested the minor's admission under this
62 section revokes his or her consent at any time, or if the minor
63 fourteen years of age or older objects at any time to his or her
64 further treatment, the minor shall be discharged within
65 ninety-six hours to the custody of the consenting parent or

66 guardian, unless the chief medical officer of the mental health
67 facility files a petition for involuntary hospitalization,
68 pursuant to the provisions of section three of this article, or
69 the minor's continued hospitalization is authorized as an
70 involuntary hospitalization pursuant to the provisions of
71 article five of this chapter: *Provided*, That if the ninety-six
72 hour time period would result in the minor being discharged
73 and released on a Saturday, a Sunday or a holiday on which
74 the court is closed, the period of time in which the patient
75 shall be released by the facility shall be extended until the
76 next day which is not a Saturday, Sunday or legal holiday on
77 which the court is lawfully closed.

78 (e) Nothing in this section may be construed to obligate
79 the State of West Virginia for costs of voluntary
80 hospitalizations permitted by the provisions of this section.

81 (f) For the purposes of this section, all mental health
82 facilities in this state shall make a blank copy of their
83 application for admission immediately available to any
84 person or entity who requests the application. The

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85 application is “immediately available” if it is promptly sent
86 by facsimile or e-mail to the requesting person or entity, or
87 available through other immediate electronic means, such as
88 posting the blank application on the facility’s public website.