

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Committee Substitute

for

Senate Bill 574

BY SENATORS MARONEY AND STOLLINGS

[Originating in the Committee on Health and Human
Resources; Reported on February 22, 2019]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §27-5-2a, relating to permitting an authorized physician to order the
3 involuntary hospitalization of an individual whom the physician believes is addicted or
4 mentally ill; setting forth a procedure; defining terms; limiting liability; and requiring the
5 West Virginia Supreme Court of Appeals to produce information to hospitals regarding
6 contact information for mental hygiene commissioners, designated county magistrates,
7 and circuit judges.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. INVOLUNTARY HOSPITALIZATION.

§27-5-2a. Involuntary hospitalization order by a physician.

1 (a) As used in this section:

2 “Addiction” as used in this section shall have the same meaning as the term is defined in
3 §27-1-11 of this code.

4 “Authorized staff physician” means a physician, authorized pursuant to the provisions of
5 §30-3-1 et seq., or §30-14-1 et seq. of this code, who is a bona fide member of the hospital’s
6 medical staff.

7 “Hospital” means a facility licensed pursuant to the provisions of §16-5b-1 et seq. of this
8 code, and any acute care facility operated by the state government, that primarily provides
9 inpatient diagnostic, treatment, or rehabilitative services to injured, disabled, or sick persons
10 under the supervision of physicians.

11 (b)(1) If a mental hygiene commissioner, designated county magistrate, and circuit judge
12 are unavailable or unable to be contacted, an authorized staff physician may order the involuntary
13 hospitalization of a person who seeks treatment or presents at a hospital emergency department
14 in need of treatment if the authorized staff physician believes that the individual is addicted or is
15 mentally ill and, because of his or her addiction or mental illness, is likely to cause serious harm
16 to themselves or to others if allowed to remain at liberty. Immediately upon admission, or as soon

17 as practicable thereafter but in no event later than 24 hours after admission, the staff physician
18 or designated employee shall file a mental hygiene petition in which the staff physician certifies
19 the person for whom the involuntary hospitalization is sought is addicted or is mentally ill and,
20 because of his or her addiction or mental illness, is likely to cause serious harm to themselves or
21 others if allowed to remain at liberty. Upon receipt of this filing the mental hygiene commissioner,
22 designated county magistrate, or circuit judge shall conduct a hearing pursuant to §27-5-2 of this
23 code.

24 (2) If the patient remains admitted at the hospital, within 24 hours of the involuntary
25 hospitalization under this section, the authorized staff physician ordering the involuntary
26 hospitalization of the individual shall certify in the individual's health record that in his or her
27 professional opinion the individual should be involuntarily hospitalized because the individual is
28 addicted or is mentally ill and, because of his or her addiction or mental illness, is likely to cause
29 serious harm to themselves or to others if allowed to remain at liberty.

30 (3) An individual who is involuntarily hospitalized pursuant to this section shall be released
31 from the hospital within 48 hours unless further detained under the applicable provisions of this
32 article.

33 (c) Each health care provider which provides services under this section shall be paid for
34 the services at the same rate the health care provider negotiates with the patient's insurer. If the
35 patient is uninsured, the health care provider may file a claim with the West Virginia Legislative
36 Claims Commission for payment.

37 (d) Persons carrying out duties or rendering professional opinions as provided in this
38 section are free of personal liability for the actions, if the actions are performed in good faith and
39 within the scope of their professional duties and in a manner consistent with accepted professional
40 practices.

41 (e) The West Virginia Supreme Court shall provide each hospital with a list of names and
42 contact information of the mental hygiene commissioners, designated county magistrates and

- 43 circuit judges to address mental hygiene petitions in the county where the hospital is located. This
44 list shall be updated regularly and shall reflect on call information.

NOTE: The purpose of this bill is to permit an authorized physician to order the involuntary hospitalization of an individual whom the physician believes is addicted or mentally ill. The bill sets forth a procedure. The bill defines terms. The bill limits liability.

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