

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO BEHAVIORAL HEALTHCARE, DEVELOPMENTAL DISABILITIES AND
HOSPITALS -- MENTAL HEALTH LAW

Introduced By: Representatives Bennett, Casimiro, Noret, Caldwell, Serpa, Ackerman,
Casey, Speakman, Carson, and Hull

Date Introduced: February 08, 2023

Referred To: House Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 40.1-5-5, 40.1-5-7, 40.1-5-8, 40.1-5-9 and 40.1-5-10 of the General
2 Laws in Chapter 40.1-5 entitled "Mental Health Law" are hereby amended to read as follows:

3 **40.1-5-5. Admission of patients generally — Rights of patients — Patients' records —**
4 **Competence of patients.**

5 (a) **Admissions.** Any person who is in need of care and treatment in a facility, as herein
6 defined, may be admitted or certified, received, and retained as a patient in a facility by complying
7 with any one of the following admission procedures applicable to the case:

8 (1) Voluntary admission.

9 (2) Emergency certification.

10 (3) Civil court certification.

11 (b) **Forms.** The director shall prescribe and furnish forms for use in admissions and patient
12 notification procedures under this chapter.

13 (c) **Exclusions.** No person with a psychiatric disability, or person under the influence of
14 alcohol or drugs shall be certified to a facility, as herein defined, solely by reason of that condition,
15 unless the person also qualified for admission or certification under the provisions of this chapter.

16 (d) **Examining physician or licensed advanced practice registered nurse (APRN).** For
17 purposes of certification, no examining physician or licensed advanced practice registered nurse
18 (APRN), certified in psychiatric/mental health shall be related by blood or marriage to the person

1 who is applying for the admission of another, or to the person who is the subject of the application;
2 nor shall he or she have any interest, contractually, testamentary, or otherwise (other than
3 reasonable and proper charges for professional services rendered), in or against the estate or assets
4 of the person who is the subject of the application; nor shall he or she be a manager, trustee, visitor,
5 proprietor, officer, stockholder, or have any pecuniary interest, directly or indirectly, or, except as
6 otherwise herein expressly provided, be a director, resident physician, or salaried physician,
7 [licensed advanced practice registered nurse \(APRN\), certified in psychiatric/mental health](#), or
8 employee in any facility to which it is proposed to admit the person.

9 (e) **Certificates.** Certificates, as required by this chapter, must provide a factual
10 description of the person's behavior that indicates that the person concerned is psychiatrically
11 disabled, creates a likelihood of serious harm, and is in need of care and treatment in a facility as
12 defined in this chapter. They shall further set forth such other findings as may be required by the
13 particular certification procedure used. Certificates shall also show that an examination of the
14 person concerned was made within five (5) days prior to the date of admission or certification,
15 unless otherwise herein provided. The date of the certificate shall be the date of the commencement
16 of the examination, and in the event examinations are conducted separately or over a period of
17 days, then the five-day (5) period above referred to (unless otherwise expressly provided) shall be
18 measured from the date of the commencement of the first examination. All certificates shall contain
19 the observations upon which judgments are based, and shall contain other information as the
20 director may by rule or regulation require.

21 (f) **Rights of patients.** No patient admitted or certified to any facility under any provision
22 of this chapter shall be deprived of any constitutional, civil, or legal right, solely by reason of such
23 admission or certification nor shall the certification or admission modify or vary any constitutional
24 or civil right, including, but not limited to, the right or rights:

25 (1) To privacy and dignity;

26 (2) To civil service or merit rating or ranking and appointment;

27 (3) Relating to the granting, forfeiture or denial of a license, permit, privilege, or benefit
28 pursuant to any law;

29 (4) To religious freedom;

30 (5) To be visited privately at all reasonable times by his or her personal physician, attorney,
31 and clergyperson, and by other persons at all reasonable times unless the official in charge of the
32 facility determines either that a visit by any of the other persons or a particular visitation time would
33 not be in the best interests of the patient and he or she incorporates a statement for any denial of
34 visiting rights in the individualized treatment record of the patient;

1 (6) To be provided with stationery, writing materials, and postage in reasonable amounts
2 and to have free unrestricted, unopened, and uncensored use of the mails for letters;

3 (7) To wear one's own clothes, keep and use personal possessions, including toilet articles;
4 to keep and be allowed to spend a reasonable sum of money for canteen expenses and small
5 purchases; to have access to individual storage space for the person's private use; and reasonable
6 access to telephones to make and receive confidential calls; provided, however, that any of these
7 rights may be denied for good cause by the official in charge of a facility or a physician designated
8 by him or her. A statement of the reasons for any denial shall be entered in the individualized
9 treatment record of the patient;

10 (8) To seek independent psychiatric examination and opinion from a psychiatrist or mental
11 health professional of the patient's choice to include, but not limited to, a licensed advanced
12 practice registered nurse (APRN), certified in psychiatric/mental health;

13 (9) To be employed at a gainful occupation insofar as the patient's condition permits,
14 provided however, that no patient shall be required to perform labor;

15 (10) To vote and participate in political activity;

16 (11) To receive and read literature;

17 (12) To have the least possible restraint imposed upon the person consistent with affording
18 him or her the care and treatment necessary and appropriate to the patient's condition;

19 (13) To have access to the mental health advocate upon request;

20 (14) To prevent release of his or her name to the advocate or next of kin by signing a form
21 provided to all patients for that purpose at the time of admission.

22 (g) **Records.** A facility shall maintain for each patient admitted pursuant to this chapter, a
23 comprehensive medical record. The record shall contain a recorded, individualized treatment plan,
24 which shall at least monthly be reviewed by the physician of the facility who is chiefly responsible
25 for the patient's care, notations of the reviews to be entered in the record. The records shall also
26 contain information indicating at the time of admission or certification what alternatives to
27 admission or certification are available to the patient; what alternatives have been investigated; and
28 why the investigated alternatives were not deemed suitable. The medical record shall further
29 contain other information as the director may by rule or regulation require.

30 (h) **Competence.** A person shall not, solely by reason of the person's admission or
31 certification to a facility for examination or care and treatment under the provisions of this chapter,
32 thereby be deemed incompetent to manage the person's affairs; to contract; to hold or seek a
33 professional, occupational, or vehicle operator's license; to make a will; or for any other purpose.
34 Neither shall any requirement be made, by rule, regulation, or otherwise, as a condition to

1 admission and retention, that any person applying for admission shall have the legal capacity to
2 contract, it being sufficient for the purpose, that the person understand the nature and consequence
3 of making the application.

4 **40.1-5-7. Emergency certification.**

5 (a) **Applicants.**

6 (1) Any physician ~~who~~ or licensed advanced practice registered nurse (APRN), certified in
7 psychiatric/mental health, who after examining a person, has reason to believe that the person is in
8 need of immediate care and treatment, and is one whose continued unsupervised presence in the
9 community would create an imminent likelihood of serious harm by reason of psychiatric disability,
10 may apply at a facility for the emergency certification of the person thereto. The medical director,
11 or any other physician employed by the proposed facility for certification, may apply under this
12 subsection if no other physician or licensed advanced practice registered nurse (APRN), certified
13 in psychiatric/mental health, is available and the medical director or physician certifies this fact. If
14 an examination is not possible because of the emergency nature of the case and because of the
15 refusal of the person to consent to the examination, the applicant on the basis of his or her
16 observation may determine, in accordance with the above, that emergency certification is necessary
17 and may apply therefor. In the event that no physician or licensed advanced practice registered
18 nurse (APRN), certified in psychiatric/mental health, is available, a qualified mental health
19 professional who believes the person to be in need of immediate care and treatment, and one whose
20 continued unsupervised presence in the community would create an imminent likelihood of serious
21 harm by reason of psychiatric disability, may make the application for emergency certification to a
22 facility. Application shall in all cases be made to the facility that, in the judgment of the applicant
23 at the time of application, would impose the least restraint on the liberty of the person consistent
24 with affording the person the care and treatment necessary and appropriate to the person's
25 condition.

26 (2) Whenever an applicant who is not employed by a community mental health center
27 established pursuant to chapter 8.5 of this title, has reason to believe that either the Rhode Island
28 state psychiatric hospital or the Eleanor Slater hospital is the appropriate facility for the person, the
29 application shall be directed to the community mental health center that serves the area in which
30 the person resides, if the person is a Rhode Island resident, or the area in which the person is
31 physically present, if a nonresident, and the qualified mental health professional(s) at the center
32 shall make the final decision on the application to either the Rhode Island state psychiatric hospital
33 or the Eleanor Slater hospital or may determine whether some other disposition should be made.

34 (b) **Applications.** An application for certification hereunder shall be in writing and filed

1 with the facility to which admission is sought. The application shall be executed within five (5)
2 days prior to the date of filing and shall state that it is based upon a personal observation of the
3 prospective patient by the applicant within the five-day (5) period. It shall include a description of
4 the applicant's credentials and the behavior that constitutes the basis for his or her judgment that
5 the prospective patient is in need of immediate care and treatment and that a likelihood of serious
6 harm by reason of psychiatric disability exists, and shall include, as well, any other relevant
7 information that may assist the admitting physician or licensed advanced practice registered nurse
8 (APRN), certified in psychiatric/mental health at the facility to which application is made. The
9 application shall state whether the facility, in the judgment of the applicant at the time of
10 application, would impose the least restraint on the liberty of the person consistent with affording
11 him or her the care and treatment necessary and appropriate to his or her condition. Whenever
12 practicable, prior to transporting or arranging for the transporting of a prospective patient to a
13 facility, the applicant shall telephone or otherwise communicate with the facility to describe the
14 circumstances and known clinical history to determine whether it is the proper facility to receive
15 the person, and to give notice of any restraint to be used or to determine whether restraint is
16 necessary.

17 (c) **Confirmation; discharge; transfer.** Within one hour after reception at a facility, the
18 person regarding whom an application has been filed under this section shall be seen by a physician
19 or licensed advanced practice registered nurse (APRN), certified in psychiatric/mental health. As
20 soon as possible, but in no event later than twenty-four (24) hours after reception, a preliminary
21 examination and evaluation of the person by a psychiatrist or a physician, or licensed advanced
22 practice registered nurse (APRN), certified in psychiatric/mental health, under the psychiatrist's
23 supervision shall begin. The psychiatrist shall not be an applicant hereunder. The preliminary
24 examination and evaluation shall be completed within seventy-two (72) hours from its inception
25 by the psychiatrist. If the psychiatrist determines that the patient is not a candidate for emergency
26 certification, the patient shall be discharged. If the psychiatrist(s) determines that the person who
27 is the subject of the application is in need of immediate care and treatment and is one whose
28 continued unsupervised presence in the community would create an imminent likelihood of serious
29 harm by reason of psychiatric disability, the psychiatrist shall confirm the admission for care and
30 treatment under this section of the person to the facility, provided the facility is one that would
31 impose the least restraint on the liberty of the person consistent with affording the person the care
32 and treatment necessary and appropriate to the person's condition and that no suitable alternatives
33 to certification are available. If at any time the official in charge of a facility, or the official's
34 designee, determines that the person is not in need of immediate care and treatment, or is not one

1 whose continued unsupervised presence in the community would create an imminent likelihood of
2 serious harm by reason of psychiatric disability, or suitable alternatives to certification are
3 available, the official shall immediately discharge the person. In addition, the official may arrange
4 to transfer the person to an appropriate facility if the facility to which he or she has been certified
5 is not one that imposes the least restraint on the liberty of the person consistent with affording him
6 or her the care and treatment necessary and appropriate to his or her condition.

7 (d) **Custody.** Upon the request of an applicant under this section, to be confirmed in
8 writing, it shall be the duty of any peace officer of this state or of any governmental subdivision
9 thereof to whom request has been made, to take into custody and immediately transport the person
10 to the designated facility for admission thereto.

11 (e) **Ex parte court order.** An applicant under this section may present a petition to any
12 judge of the district court or any justice of the family court, in the case of a person who is the subject
13 of an application who has not yet attained his or her eighteenth birthday, for a warrant directed to
14 any peace officer of the state or any governmental subdivision thereof to take into custody the
15 person who is the subject of the application and immediately transport the person to a designated
16 facility. The application shall set forth that the person who is to be certified is in need of immediate
17 care and treatment and the person's continued unsupervised presence in the community would
18 create an imminent likelihood of serious harm by reason of psychiatric disability, and the reasons
19 why an order directing a peace officer to transport the person to a designated facility is necessary.

20 (f) **Notification of rights.** No person shall be certified to a facility under the provisions of
21 this section unless appropriate opportunity is given to apply for voluntary admission under the
22 provisions of § 40.1-5-6 and unless the person, or a parent, guardian, or next of kin, has been
23 informed, in writing, on a form provided by the department, by the official in charge of the facility:
24 (1) That he or she has a right to the voluntary admission; (2) That a person cannot be certified until
25 all available alternatives to certification have been investigated and determined to be unsuitable;
26 and (3) That the period of hospitalization or treatment in a facility cannot exceed ten (10) days
27 under this section, except as provided in subsection (g) of this section.

28 (g) **Period of treatment.** A person shall be discharged no later than ten (10) days measured
29 from the date of his or her admission under this section, unless an application for a civil court
30 certification has been filed and set down for a hearing under the provisions of § 40.1-5-8, or the
31 person remains as a voluntary patient pursuant to § 40.1-5-6.

32 **40.1-5-8. Civil court certification.**

33 (a) **Petitions.** A verified petition may be filed in the district court, or family court in the
34 case of a person who has not reached his or her eighteenth (18th) birthday, for the certification to a

1 facility of any person who is alleged to be in need of care and treatment in a facility, and whose
2 continued unsupervised presence in the community would create a likelihood of serious harm by
3 reason of psychiatric disability. The petition may be filed by any person with whom the subject of
4 the petition may reside; or at whose house the person may be; or the father or mother, husband or
5 wife, brother or sister, or the adult child of the person; the nearest relative if none of the above are
6 available; or the person's guardian; or the attorney general; or a local director of public welfare; or
7 the director of the department of behavioral healthcare, developmental disabilities and hospitals;
8 the director of the department of human services; or the director of the department of corrections;
9 the director of the department of health; the warden of the adult correctional institutions; the
10 superintendent of the boys training school for youth, or his or her designated agent; or the director
11 of any facility, or the facility director's designated agent, whether or not the person shall have been
12 admitted and is a patient at the time of the petition. A petition under this section shall be filed only
13 after the petitioner has investigated what alternatives to certification are available and determined
14 why the alternatives are not deemed suitable.

15 (b) **Contents of petition.** The petition shall state that it is based upon a personal
16 observation of the person concerned by the petitioner within a ten-day (10) period prior to filing. It
17 shall include a description of the behavior that constitutes the basis for the petitioner's judgment
18 that the person concerned is in need of care and treatment and that a likelihood of serious harm by
19 reason of psychiatric disability exists. In addition, the petitioner shall indicate what alternatives to
20 certification are available; what alternatives have been investigated; and why the investigated
21 alternatives are not deemed suitable.

22 (c) **Certificates and contents thereof.** A petition hereunder shall be accompanied by the
23 two (2) certificates ~~of two (2)~~ by either a ~~physicians~~ physician(s) and/or licensed advanced practice
24 registered nurses (APRN), certified in psychiatric/mental health unless the petitioner is unable to
25 afford, or is otherwise unable to obtain, the services of a physician or physicians or a licensed
26 advanced practice registered nurse (APRN), certified in psychiatric/mental health qualified to make
27 the certifications. The certificates shall be rendered pursuant to the provisions of § 40.1-5-5, except
28 when the patient is a resident in a facility, the attending physician and one other physician or
29 licensed advanced practice registered nurse (APRN), certified in psychiatric/mental health from the
30 facility may sign the certificates, and shall set forth that the prospective patient is in need of care
31 and treatment in a facility and would likely benefit therefrom, and is one whose continued
32 unsupervised presence in the community would create a likelihood of serious harm by reason of
33 psychiatric disability together with the reasons therefor. The petitions and accompanying
34 certificates shall be executed under penalty of perjury, but shall not require the signature of a notary

1 public thereon.

2 (d) **Preliminary hearing.**

3 (1) Upon a determination that the petition sets forth facts constituting reasonable grounds
4 to support certification, the court shall summon the person to appear before the court at a
5 preliminary hearing, scheduled no later than five (5) business days from the date of filing. This
6 hearing shall be treated as a priority on the court calendar and may be continued only for good
7 cause shown. In default of an appearance, the court may issue a warrant directing a police officer
8 to bring the person before the court.

9 (2) At the preliminary hearing, the court shall serve a copy of the petition upon the person
10 and advise the person of the nature of the proceedings and of the person's right to counsel. If the
11 person is unable to afford counsel, the court forthwith shall appoint the mental health advocate for
12 him or her. If the court finds that there is no probable cause to support certification, the petition
13 shall be dismissed, and the person shall be discharged unless the person applies for voluntary
14 admission. However, if the court is satisfied by the testimony that there is probable cause to support
15 certification, a final hearing shall be held not less than seven (7) days, nor more than twenty-one
16 (21) days, after the preliminary hearing, unless continued at the request of counsel for the person,
17 and notice of the date set down for the hearing shall be served on the person. Copies of the petition
18 and notice of the date set down for the hearing shall also be served immediately upon the person's
19 nearest relatives or legal guardian, if known, and to any other person designated by the patient, in
20 writing, to receive copies of notices. The preliminary hearing can be waived by a motion of the
21 patient to the court if the patient is a resident of a facility.

22 (e) **Petition for examination.**

23 (1) Upon motion of either the petitioner or the person, or upon its own motion, the court
24 may order that the person be examined by a psychiatrist [or licensed advanced practice registered](#)
25 [nurse \(APRN\), certified in psychiatric/mental health](#), appointed by the court. The examination may
26 be conducted on an outpatient basis and the person shall have the right to the presence of counsel
27 while it is being conducted. A report of the examination shall be furnished to the court, the
28 petitioner, and the person and his or her counsel at least forty-eight (48) hours prior to the hearing.

29 (2) If the petition is submitted without two (2) physicians' certificates as required under
30 subsection (c), the petition shall be accompanied by a motion for a psychiatric examination to be
31 ordered by the court. The motion shall be heard on the date of the preliminary hearing set by the
32 court pursuant to subsection (d), or as soon thereafter as counsel for the subject person is engaged,
33 appointed, and ready to proceed. The motion shall be verified or accompanied by affidavits and
34 shall set forth facts demonstrating the efforts made to secure examination and certification by a

1 physician or physicians, or licensed advanced practice registered nurse (APRN), certified in
2 psychiatric/mental health, and shall indicate the reasons why the efforts failed.

3 (3) After considering the motion and testimony as may be offered on the date of hearing
4 the motion, the court may deny the application and dismiss the petition, or upon finding: (i) That
5 there is a good cause for the failure to obtain one or more physician's or licensed advanced practice
6 registered nurse (APRN), certified in psychiatric/mental health certificates in accordance with
7 subsection (c); and (ii) That there is probable cause to substantiate the allegations of the petition,
8 the court shall order an immediate examination by two (2) qualified psychiatrists or licensed
9 advanced practice registered nurses (APRN), certified in psychiatric/mental health, pursuant to
10 subsection (e)(1).

11 (f) **Professional assistance.** A person with respect to whom a court hearing has been
12 ordered under this section shall have, and be informed of, a right to employ a mental health
13 professional of the person's choice to assist the person in connection with the hearing and to testify
14 on the person's behalf. If the person cannot afford to engage such a professional, the court shall,
15 on application, allow a reasonable fee for the purpose.

16 (g) **Procedure.** Upon receipt of the required certificates and/or psychiatric reports as
17 applicable hereunder, the court shall schedule the petition for final hearing unless, upon review of
18 the reports and certificates, the court concludes that the certificates and reports do not indicate, with
19 supporting reasons, that the person who is the subject of the petition is in need of care and treatment;
20 that his or her unsupervised presence in the community would create a likelihood of serious harm
21 by reason of psychiatric disability; and that all alternatives to certification have been investigated
22 and are unsuitable, in which event the court may dismiss the petition.

23 (h) **Venue.** An application for certification under this section shall be made to, and all
24 proceedings pursuant thereto shall be conducted in, the district court, or family court in the case of
25 a person who has not yet reached his or her eighteenth (18th) birthday, of the division or county in
26 which the subject of an application may reside or may be, or when the person is already a patient
27 in a facility, in the district court or family court of the division or county in which the facility is
28 located, subject, however, to application by any interested party for change of venue because of
29 inconvenience of the parties or witnesses or the condition of the subject of the petition or other
30 valid judicial reason for the change of venue.

31 (i) **Hearing.** A hearing scheduled under this section shall be conducted pursuant to the
32 following requirements:

33 (1) All evidence shall be presented according to the usual rules of evidence that apply in
34 civil, non-jury cases. The subject of the proceedings shall have the right to present evidence in his

1 or her own behalf and to cross examine all witnesses against him or her, including any physician
2 [or licensed advanced practice registered nurse \(APRN\), certified in psychiatric/mental health](#) who
3 has completed a certificate or filed a report as provided hereunder. The subject of the proceedings
4 shall have the further right to subpoena witnesses and documents, the cost of such to be borne by
5 the court where the court finds upon an application of the subject that the person cannot afford to
6 pay for the cost of subpoenaing witnesses and documents.

7 (2) A verbatim transcript or electronic recording shall be made of the hearing that shall be
8 impounded and obtained or examined only with the consent of the subject thereof (or in the case of
9 a person who has not yet attained his or her eighteenth (18th) birthday, the person's parent,
10 guardian, or next of kin) or by order of the court.

11 (3) The hearing may be held at a location other than a court, including any facility where
12 the subject may currently be a patient, where it appears to the court that holding the hearing at
13 another location would be in the best interests of the subject thereof.

14 (4) The burden of proceeding and the burden of proof in a hearing held pursuant to this
15 section shall be upon the petitioner. The petitioner has the burden of demonstrating that the subject
16 of the hearing is in need of care and treatment in a facility; is one whose continued unsupervised
17 presence in the community would create a likelihood of serious harm by reason of psychiatric
18 disability; and what alternatives to certification are available, what alternatives to certification were
19 investigated, and why these alternatives were not deemed suitable.

20 (5) The court shall render a decision within forty-eight (48) hours after the hearing is
21 concluded.

22 (j) **Order.** If the court at a final hearing finds by clear and convincing evidence that the
23 subject of the hearing is in need of care and treatment in a facility, and is one whose continued
24 unsupervised presence in the community would, by reason of psychiatric disability, create a
25 likelihood of serious harm, and that all alternatives to certification have been investigated and
26 deemed unsuitable, it shall issue an order committing the person to the custody of the director for
27 care and treatment or to an appropriate facility. In either event, and to the extent practicable, the
28 person shall be cared for in a facility that imposes the least restraint upon the liberty of the person
29 consistent with affording the person the care and treatment necessary and appropriate to the
30 person's condition. No certification shall be made under this section unless and until full
31 consideration has been given by the certifying court to the alternatives to in-patient care, including,
32 but not limited to, a determination of the person's relationship to the community and to the person's
33 family; of his or her employment possibilities; and of all available community resources, alternate
34 available living arrangements, foster care, community residential facilities, nursing homes, and

1 other convalescent facilities. A certificate ordered pursuant to this section shall be valid for a period
2 of six (6) months from the date of the order. At the end of that period the patient shall be discharged,
3 unless the patient is discharged prior to that time, in which case the certification shall expire on the
4 date of the discharge.

5 **(k) Appeals.**

6 (1) A person certified under this section shall have a right to appeal from a final hearing to
7 the supreme court of the state within thirty (30) days of the entry of an order of certification. The
8 person shall have the right to be represented on appeal by counsel of his or her choice or by the
9 mental health advocate if the supreme court finds that the person cannot afford to retain counsel.
10 Upon a showing of indigency, the supreme court shall permit an appeal to proceed without payment
11 of costs, and a copy of the transcript of the proceedings below shall be furnished to the subject of
12 the proceedings, or to the person's attorney, at the expense of the state. The certifying court shall
13 advise the person of all the person's rights pursuant to this section immediately upon the entry of
14 an order of certification.

15 (2) Appeals under this section shall be given precedence, insofar as practicable, on the
16 supreme court dockets. The district and family courts shall promulgate rules with the approval of
17 the supreme court to insure the expeditious transmission of the record and transcript in all appeals
18 pursuant to this chapter.

19 **(l) Submission to NICS database.**

20 (1) The district court shall submit the name, date of birth, gender, race or ethnicity, and
21 date of civil commitment to the National Instant Criminal Background Check System (NICS)
22 database of all persons subject to a civil court certification order pursuant to this section within
23 forty-eight (48) hours of certification.

24 (2) Any person affected by the provisions of this section, after the lapse of a period of three
25 (3) years from the date such civil certification is terminated, shall have the right to appear before
26 the relief from disqualifiers board.

27 (3) Upon notice of a successful appeal pursuant to subsection (k), the district court shall,
28 as soon as practicable, cause the appellant's record to be updated, corrected, modified, or removed
29 from any database maintained and made available to the NICS and reflect that the appellant is no
30 longer subject to a firearms prohibition as it relates to 18 U.S.C. § 922(d)(4) and 18 U.S.C. §
31 922(g)(4).

32 **(m) Equitable authority.** In addition to the powers heretofore exercised, the district and
33 family courts are hereby empowered, in furtherance of their jurisdiction under this chapter, to grant
34 petitions for instructions for the provision or withholding of treatment as justice and equity may

1 require.

2 **40.1-5-9. Right to treatment — Treatment plan.**

3 (a) Any person who is a patient in a facility pursuant to this chapter shall have a right to
4 receive the care and treatment that is necessary for and appropriate to the condition for which he or
5 she was admitted or certified and from which he or she can reasonably be expected to benefit. Each
6 patient shall have an individualized treatment plan. This plan shall be developed by appropriate
7 mental health professionals, including a psychiatrist, [or licensed advanced practice registered nurse](#)
8 [\(APRN\), certified in psychiatric/mental health](#), and implemented as soon as possible — in any
9 event no later than five (5) days after a patient's voluntary admission or involuntary court
10 certification. Each individual treatment plan shall be made in accordance with the professional
11 regulations of each facility, and by way of illustration and, not limited to the following, shall
12 contain:

- 13 (1) A statement of the nature of the specific problems and specific needs of the patient;
14 (2) A statement of the least restrictive treatment conditions necessary to achieve the
15 purposes of certification or admission;
16 (3) A description of intermediate and long-range treatment goals; and
17 (4) A statement and rationale for the plan of treatment for achieving these intermediate and
18 long-range goals.

19 (b) The individualized treatment plan shall become part of the patient's record in
20 accordance with § 40.1-5-5(g), and the subject of periodic review in accordance with § 40.1-5-10.
21 In implementing a treatment plan on behalf of any patient, the official in charge of any facility, or
22 his or her designee(s), may, when it is warranted, authorize the release of the patient for such
23 periods of time and under such terms and conditions that he or she deems appropriate.

24 **40.1-5-10. Periodic institutional review proceedings.**

25 (a) In general. Each patient admitted or certified to a facility pursuant to the provisions of
26 this chapter shall be the subject of a periodic review of his or her condition and status to be
27 conducted by a review committee composed of at least one psychiatrist [or licensed advanced](#)
28 [practice registered nurse \(APRN\), certified in psychiatric/mental health](#) and other mental health
29 professionals involved in treating the patient. The committee shall be composed of no fewer than
30 three (3) persons and shall be appointed by the director of the facility or his or her designated agent.
31 The reviews shall minimally involve an evaluation of the quality of care the patient is receiving,
32 including an evaluation of the patient's treatment plan, and the making of any recommendations
33 for the improvement of the care or for the revision of the treatment plan, including alternative
34 available living arrangements, foster care, community residential facilities, nursing homes, and

1 other convalescent facilities. At every fourth review, one member of the committee shall be a
2 member of the hospital's utilization review committee appointed by that committee's chairperson.

3 (b) Frequency. The review proceedings shall take place at least once within each ninety-
4 day (90) period during which a person is a patient in the facility.

5 (c) Results of review. The results of each review shall be entered in the patient's medical
6 record, presented orally to the patient within twenty-four (24) hours, and confirmed by written
7 notice to the patient and his or her guardian, or with the patient's consent, to his or her next of kin,
8 within seventy-two (72) hours. In the event the director of the facility is not a member of the
9 committee, the notice shall be transmitted to him or her as well. Where the committee determines
10 that further care in the facility is required, the notice to the patient shall include an explanation of
11 the patient's rights to pursue discharge as elsewhere provided in this chapter.

12 SECTION 2. This act shall take effect upon passage.

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LC001338
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO BEHAVIORAL HEALTHCARE, DEVELOPMENTAL DISABILITIES AND
HOSPITALS -- MENTAL HEALTH LAW

1 This act would include licensed advanced practice registered nurses (APRN), certified in
2 psychiatric/mental health, as qualified to certify the need for mental health treatment in certain
3 patients.

4 This act would take effect upon passage.

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LC001338
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