

2012 -- S 2209

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LC00406
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO BEHAVIORAL HEALTHCARE, DEVELOPMENTAL DISABILITIES AND
HOSPITALS

Introduced By: Senator Roger Picard

Date Introduced: January 24, 2012

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 40.1-5-6 of the General Laws in Chapter 40.1-5 entitled "Mental
2 Health Law" is hereby amended to read as follows:

3 **40.1-5-6. Voluntary admission.** -- (a) (1) General. - Any individual of lawful age may
4 apply for voluntary admission to any facility provided for by this law seeking care and treatment
5 for alleged mental disability. The application shall be in writing, signed by the applicant in the
6 presence of at least one witness, who shall attest to the application by placing his or her name and
7 address thereon. If the applicant has not yet attained his or her eighteenth (18th) birthday, the
8 application shall be signed by him or her and his or her parent, guardian, or next of kin.

9 (2) Admission of children. - Any person who is under the age of eighteen (18) and who
10 receives medical benefits funded in whole or in part by either the department of children, youth,
11 and families or by the department of human services may be admitted to any facility provided for
12 by this chapter seeking care and treatment for alleged mental disability only after an initial mental
13 health crisis intervention is completed by a provider that is licensed by the department of
14 children, youth and families for emergency services, has proper credentials and is contracted with
15 the RIte Care health plan or the state and said provider, after considering alternative services to
16 hospitalization with the child, family and other providers, requests prior authorization for the
17 admission from a representative of the child and family's insurance company or utilization review
18 organization representing the insurance company. To ensure the strongest consideration of

1 community-based alternatives to hospitalization, any emergency services system operated by the
2 department of children, youth and families, including, but not limited to, a telephone crisis hotline
3 shall direct families with children in need of behavioral health crisis evaluation to community-
4 based settings unless the hospital emergency department is voluntarily sought by the family or
5 child or is deemed medically necessary by any involved party. If the inpatient hospital admits a
6 child without the crisis intervention and prior authorization from the insurance company or
7 utilization review organization, the hospital will be paid a rate equivalent to an Administratively
8 Necessary Day (AND) for each day that the insurance company or utilization review organization
9 representing the insurance company determines that the child did not meet the inpatient level of
10 care criteria. The state shall ensure that this provision is included in all publicly financed
11 contracts and agreements for behavioral health services. Activities conducted pursuant to this
12 section shall be exempt from the provisions of section 23-17.12, but shall be subject to the
13 provisions of subsection (b) of this section.

14 (3) The department of human services shall develop regulations for emergency
15 admissions, that would allow the admitting hospital to maintain their compliance with the
16 provisions of the act, while meeting the need of the child.

17 (b) Period of treatment. - If it is determined that the applicant is in need of care and
18 treatment for mental disability and no suitable alternatives to admission are available, he or she
19 shall be admitted for a period not to exceed thirty (30) days. Successive applications for
20 continued voluntary status may be made for successive periods not to exceed ninety (90) days
21 each, so long as care and treatment is deemed necessary and documented in accordance with the
22 requirements of this chapter, and no suitable alternatives to admission are available.

23 (c) Discharge.

24 (1) A voluntary patient shall be discharged no later than the end of the business day
25 following of his or her presenting a written notice of his or her intent to leave the facility to the
26 medical official in charge or the medical official designated by him or her, unless that official or
27 another qualified person from the facility files an application for the patient's civil court
28 certification pursuant to section 40.1-5-8. The notice shall be on a form prescribed by the director
29 and made available to all patients at all times. If a decision to file an application for civil court
30 certification is made, the patient concerned and his or her legal guardian(s), if any, shall receive
31 immediately, but in no event later than twelve (12) hours from the making of the decision, notice
32 of the intention from the official in charge of the facility, or his or her designee, and the patient
33 may, in the discretion of the official, be detained for an additional period not to exceed two (2)
34 business days, pending the filing and setting down for hearing of the application under section

1 40.1-5-8.

2 (2) A voluntary patient who gives notice of his or her intention or desire to leave the
3 facility may at any time during the period of his or her hospitalization prior to any certification
4 pursuant to section 40.1-5-8, following the giving of the notice, submit a written communication
5 withdrawing the notice, whereby his or her voluntary status shall be considered to continue
6 unchanged until the expiration of thirty (30) or ninety (90) days as provided in subsection (b). In
7 the case of an individual under eighteen (18) years of age, the notice or withdrawal of notice may
8 be given by either of the persons who made the application for his or her admission, or by a
9 person of equal or closer relationship to the patient, who shall, as well, receive notice from the
10 official in charge indicating a decision to present an application for civil court certification. The
11 official may in his or her discretion refuse to discharge the patient upon notice given by any
12 person other than the person who made the application, and in the event of such a refusal the
13 person giving notice may apply to a justice of the family court for release of the patient.

14 (d) Examination at facility. - The medical official in charge of a facility shall ensure that
15 all voluntary patients receive preliminary physical and psychiatric examinations within twenty-
16 four (24) hours of admission. Furthermore, a complete psychiatric examination shall be
17 conducted to determine whether the person qualifies for care and treatment under the provisions
18 of this chapter. The examination shall begin within forty-eight (48) hours of admission and shall
19 be concluded as soon as practicable, but in no case shall extend beyond five (5) days. The
20 examination shall include an investigation with the prospective patient of (1) what alternatives for
21 admission are available and (2) why those alternatives are not suitable. The alternatives for
22 admission investigated and reasons for unsuitability, if any, shall be recorded on the patient's
23 record. If it is determined that the patient does not belong to the voluntary class in that a suitable
24 alternative to admission is available, or is otherwise ineligible for care and treatment, he or she
25 shall be discharged.

26 (e) Rights of voluntary patients. - A voluntary patient shall be informed, in writing, of
27 his or her status and rights as a voluntary patient immediately upon his or her admission, and
28 again at the time of his or her periodic review(s) as provided in section 40.1-5-10, including his or
29 her rights pursuant to section 40.1-5-5(f). Blank forms for purposes of indicating an intention or
30 desire to leave a facility shall be available at all times and on and in all wards and segments of a
31 facility wherein voluntary patients may reside.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO BEHAVIORAL HEALTHCARE, DEVELOPMENTAL DISABILITIES AND
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1 This act would require any emergency services system operated by the department of
2 children, youth and families to direct families with children in need of behavioral health
3 evaluations to community-based settings unless the hospital emergency department is voluntarily
4 sought or is medically necessary.

5 This act would take effect upon passage.

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