

ACT No. 369

2017 Regular Session

HOUSE BILL NO. 341

BY REPRESENTATIVE DUSTIN MILLER

1 AN ACT

2 To amend and reenact R.S. 17:1607, the heading of Title 28 of the Louisiana Revised
3 Statutes of 1950, the heading of Chapter 1 of Title 28 of the Louisiana Revised
4 Statutes of 1950, R.S. 28:1, 2(1), (7), (9), (10), (14), (17), (20), (21), (26), (29), and
5 (32)(a) and (b), 3, the heading of Part I-A of Chapter 1 of Title 28 of the Louisiana
6 Revised Statutes of 1950, R.S. 28:11, 12, 13(introductory paragraph), (1), and (3)
7 through (5), 14, 15(A)(introductory paragraph), (3), (9), and (B), the heading of Part
8 II of Chapter 1 of Title 28 of the Louisiana Revised Statutes of 1950, R.S. 28:21(A)
9 and (B), 21.1, 22(B)(introductory paragraph) and (C)(1), 22.5, 22.7(A), 22.9, 23, 25,
10 25.1(A), (C)(1)(a)(introductory paragraph) and (v), (b), (c), (2)(a)(iv), and (D), 25.2,
11 the heading of Part III of Chapter 1 of Title 28 of the Louisiana Revised Statutes of
12 1950, R.S. 28:50(1), (3), (4), and (6), 51(C), 51.1(A)(1), 52(A) through (C),
13 (G)(2)(a), and (H)(2), 52.2, 52.3, 52.4(A) through (C), 53(A), (B)(1) and (2)(b) and
14 (d)(introductory paragraph), (G)(2) and (6), (J), (K)(1), and (L)(1) and (3),
15 53.2(A)(introductory paragraph) and (1), (B), (C)(3), and (F), 54(A) and
16 (D)(1)(introductory paragraph) and (a) and (3), 55(B), (E)(1) and (3) through (5), (F),
17 (G), (I), and (J), 56(A)(1)(a) and (2)(b), (B), (C), and (G), 59(A), (C), and (D), 62,
18 64(F), 67(1) and (3), 69(A)(1), 70(A), (B)(introductory paragraph) and (1), and
19 (E)(2)(f), 71(B), (C), (E), and (F), 72(A), 73, 91 through 93, 94(A), 96(A) through
20 (C) and (E) through (H), 96.1(A), (B), and (D) through (F), 97 through 100, 101
21 through 145, 146(A), 147, the heading of Part VI of Chapter 1 of Title 28 of the
22 Louisiana Revised Statutes of 1950, R.S. 28:171(C)(4)(a) and (D)(5),
23 171.1(introductory paragraph) and (5) through (8), 172 through 181, 183, 184,
24 185(A), 200 through 202, 215.2(1)(introductory paragraph) and (2), 215.3(A) and

1 (B), 215.4(A), the heading of Part X of Chapter 1 of Title 28 of the Louisiana
 2 Revised Statutes of 1950, R.S. 28:221(1) through (6), (8), (9), and (11) through (13),
 3 222 through 225, 227(A), (C), and (E), 228, 229(A) and (C), 230(A)(introductory
 4 paragraph) and (2)(a) and (d)(i), (B), and (C), 232, 233(2), 234(introductory
 5 paragraph) and (2), the heading of Chapter 5 of Title 28 of the Louisiana Revised
 6 Statutes of 1950, R.S. 28:475, 476, 477(1) and (3)(a)(introductory paragraph) and
 7 (b), 478(A), the heading of Chapter 11 of Title 28 of the Louisiana Revised Statutes
 8 of 1950, R.S. 28:771, 772(A)(1) and (2)(c) and (B), the heading of Chapter 15 of
 9 Title 28 of the Louisiana Revised Statutes of 1950, R.S. 28:841(A), 911(1),
 10 913(A)(2) and (3), 915(A)(3), and 931(B)(2), R.S. 36:258(C) and 259(C)(10) and
 11 (16), R.S. 40:1237.1(A)(9)(a)(ii)(introductory paragraph) and 2142(A), Code of
 12 Criminal Procedure Articles 648(A)(1) and (B)(1), 657, 657.1(A)(4), and 657.2(A),
 13 and Children's Code Article 1404(9), to enact R.S. 28:2(33) through (39), and to
 14 repeal R.S. 28:2(11), 22.4, 22.10, 52.1, 95, 100.1, 182, Chapter 6 of Title 28 of the
 15 Louisiana Revised Statutes of 1950, comprised of R.S. 28:501 through 506, and
 16 Chapter 7 of Title 28 of the Louisiana Revised Statutes of 1950, comprised of R.S.
 17 28:561, relative to mental health and behavioral health laws; to revise terminology
 18 and definitions of terms relating to mental health and behavioral health; to provide
 19 relative to healthcare services for persons with mental illness and substance-related
 20 and addictive disorders; to provide for care and treatment of persons with behavioral
 21 health needs; to provide relative to facilities where such care is delivered; to provide
 22 for the administration of state psychiatric hospitals; to make technical changes and
 23 corrections in laws pertaining to mental health and behavioral health; and to provide
 24 for related matters.

25 Be it enacted by the Legislature of Louisiana:

26 Section 1. R.S. 17:1607 is hereby amended and reenacted to read as follows:

27 §1607. Medical scholarship; recipient to serve as physician at the forensic unit of
 28 ~~East Louisiana State Hospital~~ Eastern Louisiana Mental Health System

29 A. Upon the recommendation of the director of the forensic unit of the ~~East~~
 30 ~~Louisiana State Hospital~~ Eastern Louisiana Mental Health System at Jackson and

1 subsequent approval by the medical school of the Louisiana State University and
 2 Agricultural and Mechanical College, the board of supervisors of the Louisiana State
 3 University and Agricultural and Mechanical College shall award annually a ~~four year~~
 4 four-year scholarship to the medical school of the Louisiana State University and
 5 Agricultural and Mechanical College. The recipient of any such scholarship may
 6 attend the medical school without the necessity of paying tuition, matriculation,
 7 registration, laboratory, athletic, medical or other special fees, and may receive a
 8 stipend from the board of supervisors. No person shall be awarded any such
 9 scholarship unless such person agrees to serve as a physician at the forensic unit of
 10 the ~~East Louisiana State Hospital~~ Eastern Louisiana Mental Health System at
 11 Jackson at the rate of pay provided in appropriate civil service pay schedules for a
 12 period of two years after such person is awarded a certificate to practice medicine
 13 in the state of Louisiana. Any person awarded such a scholarship shall pay back to
 14 the state of Louisiana all funds received from such a scholarship if he fails to
 15 complete this required ~~two year~~ two-year service or a pro rata percentage of funds
 16 received if he completes less than two years service.

17 B. Information concerning any scholarships awarded pursuant to the
 18 provisions of Subsection A of this Section shall be published on the Louisiana
 19 Department of Health website. Such information shall include the name of the
 20 recipient and the award amount.

21 Section 2. The heading of Title 28 of the Louisiana Revised Statutes of 1950, the
 22 heading of Chapter 1 of Title 28 of the Louisiana Revised Statutes of 1950, R.S. 28:1, 2(1),
 23 (7), (9), (10), (14), (17), (20), (21), (26), (29), and (32)(a) and (b), 3, the heading of Part I-A
 24 of Chapter 1 of Title 28 of the Louisiana Revised Statutes of 1950, R.S. 28:11, 12,
 25 13(introductory paragraph), (1), and (3) through (5), 14, 15(A)(introductory paragraph), (3),
 26 (9), and (B), the heading of Part II of Chapter 1 of Title 28 of the Louisiana Revised Statutes
 27 of 1950, R.S. 28:21(A) and (B), 21.1, 22(B)(introductory paragraph) and (C)(1), 22.5,
 28 22.7(A), 22.9, 23, 25, 25.1(A), (C)(1)(a)(introductory paragraph) and (v), (b), (c), (2)(a)(iv),
 29 and (D), 25.2, the heading of Part III of Chapter 1 of Title 28 of the Louisiana Revised
 30 Statutes of 1950, R.S. 28:50(1), (3), (4), and (6), 51(C), 51.1(A)(1), 52(A) through (C),

1 (G)(2)(a), and (H)(2), 52.2, 52.3, 52.4(A) through (C), 53(A), (B)(1) and (2)(b) and
 2 (d)(introductory paragraph), (G)(2) and (6), (J), (K)(1), and (L)(1) and (3),
 3 53.2(A)(introductory paragraph) and (1), (B), (C)(3), and (F), 54(A) and (D)(1)(introductory
 4 paragraph) and (a) and (3), 55(B), (E)(1) and (3) through (5), (F), (G), (I), and (J),
 5 56(A)(1)(a) and (2)(b), (B), (C), and (G), 59(A), (C), and (D), 62, 64(F), 67(1) and (3),
 6 69(A)(1), 70(A), (B)(introductory paragraph) and (1), and (E)(2)(f), 71(B), (C), (E), and (F),
 7 72(A), 73, 91 through 93, 94(A), 96(A) through (C) and (E) through (H), 96.1(A), (B), and
 8 (D) through (F), 97 through 100, 101 through 145, 146(A), 147, the heading of Part VI of
 9 Chapter 1 of Title 28 of the Louisiana Revised Statutes of 1950, R.S. 28:171(C)(4)(a) and
 10 (D)(5), 171.1(introductory paragraph) and (5) through (8), 172 through 181, 183, 184,
 11 185(A), 200 through 202, 215.2(1)(introductory paragraph) and (2), 215.3(A) and (B),
 12 215.4(A), the heading of Part X of Chapter 1 of Title 28 of the Louisiana Revised Statutes
 13 of 1950, R.S. 28:221(1) through (6), (8), (9), and (11) through (13), 222 through 225,
 14 227(A), (C), and (E), 228, 229(A) and (C), 230(A)(introductory paragraph) and (2)(a) and
 15 (d)(i), (B), and (C), 232, 233(2), 234(introductory paragraph) and (2), the heading of Chapter
 16 5 of Title 28 of the Louisiana Revised Statutes of 1950, R.S. 28:475, 476, 477(1) and
 17 (3)(a)(introductory paragraph) and (b), 478(A), the heading of Chapter 11 of Title 28 of the
 18 Louisiana Revised Statutes of 1950, R.S. 28:771, 772(A)(1) and (2)(c) and (B), the heading
 19 of Chapter 15 of Title 28 of the Louisiana Revised Statutes of 1950, R.S. 28:841(A), 911(1),
 20 913(A)(2) and (3), 915(A)(3), and 931(B)(2) are hereby amended and reenacted and R.S.
 21 28:2(33) through (39) are hereby enacted to read as follows:

22 TITLE 28. ~~MENTAL~~ BEHAVIORAL HEALTH

23 CHAPTER 1. ~~MENTAL~~ BEHAVIORAL HEALTH LAW

24 PART I. SHORT TITLE, INTERPRETATIONS, AND DEFINITIONS

25 §1. Short title

26 This Chapter may be cited as the ~~Mental~~ Behavioral Health Law.

27 §2. Definitions

28 Whenever used in this Title, the masculine shall include the feminine, the
 29 singular shall include the plural, and the following definitions shall apply:

1 (1) "Conditional discharge" means the physical release of a judicially
 2 committed person from a treatment facility by the director or administrator or by the
 3 court. The patient may be required to report for outpatient treatment as a condition
 4 of his release. The judicial commitment of such persons shall remain in effect for
 5 a period of up to one hundred twenty days and during this time the person may be
 6 hospitalized involuntarily for appropriate medical reasons upon court order.

7 * * *

8 (7) "Director" or "~~superintendent~~" "administrator" means a person in charge
 9 of a treatment facility or his deputy.

10 * * *

11 (9) "Formal voluntary admission" means the admission of a person suffering
 12 from mental illness or ~~substance abuse~~ a substance-related or addictive disorder
 13 desiring admission to a treatment facility for diagnosis ~~and/or~~ or treatment of such
 14 condition who may be formally admitted upon his written request. Such persons
 15 may be detained following a request for discharge pursuant to R.S. 28:52.2.

16 (10) "Gravely disabled" means the condition of a person who is unable to
 17 provide for his own basic physical needs, such as essential food, clothing, medical
 18 care, and shelter, as a result of serious mental illness or ~~substance abuse~~ a substance-
 19 related or addictive disorder and is unable to survive safely in freedom or protect
 20 himself from serious harm; ~~the~~. The term also includes incapacitation by alcohol,
 21 which means the condition of a person who, as a result of the use of alcohol, is
 22 unconscious or whose judgment is otherwise so impaired that he is incapable of
 23 realizing and making a rational decision with respect to his need for treatment.

24 * * *

25 (14) "Mental health advocacy service" means a service established by the
 26 state of Louisiana for the purpose of providing legal counsel and representation for
 27 persons with mental ~~disabilities~~ illness or substance-related or addictive disorders
 28 and for ~~children and to ensure~~ ensuring that their the legal rights of those persons are
 29 protected.

30 * * *

1 (17) "Patient" means any person detained and taken care of as a person who
2 ~~is mentally ill~~ has a mental illness or person who is suffering from ~~substance abuse~~
3 a substance-related or addictive disorder.

4 * * *

5 (20) "Person ~~with~~ who has a mental illness" means any person with a
6 psychiatric disorder which has substantial adverse effects on his ability to function
7 and who requires care and treatment. It does not refer to a person with, solely, an
8 intellectual disability; or who suffers solely from epilepsy, ~~alcoholism, or drug abuse~~
9 or a substance-related or addictive disorder.

10 (21) "Petition" means a written civil complaint filed by a person of legal age
11 alleging that a person ~~is mentally ill~~ has a mental illness or is suffering from
12 ~~substance abuse~~ a substance-related or addictive disorder and requires judicial
13 commitment to a treatment facility.

14 * * *

15 (26) "Respondent" means a person alleged to ~~be mentally ill~~ have a mental
16 illness or be suffering from ~~substance abuse~~ a substance-related or addictive disorder
17 and for whom an application for commitment to a treatment facility has been filed.

18 * * *

19 ~~(29) "Substance abuse" means the condition of a person who uses narcotic,~~
20 ~~stimulant, depressant, soporific, tranquilizing, or hallucinogenic drugs or alcohol to~~
21 ~~the extent that it renders the person dangerous to himself or others or renders the~~
22 ~~person gravely disabled. "Substance use disorder" refers to a pattern of symptoms~~
23 resulting from use of a substance which the individual continues to take, despite
24 experiencing problems as a result. Substance use disorders occur when the recurrent
25 use of alcohol, drugs, or both causes clinically and functionally significant
26 impairment, such as health problems, disability, and failure to meet major
27 responsibilities at work, school, or home. Substance use disorder is based on
28 evidence of impaired control, social impairment, risky use, and pharmacological
29 criteria. The Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition,
30 allows clinicians to specify how severe the substance use disorder is, depending on

1 how many symptoms are identified. Based on a set of eleven criteria, two or three
2 symptoms indicate a mild substance use disorder, four or five symptoms indicate a
3 moderate substance use disorder, and six or more symptoms indicate a severe
4 substance use disorder.

5 * * *

6 (32)(a) "Treatment facility" means any public or private hospital, retreat,
7 institution, mental health center, or facility licensed by the state in which any person
8 who ~~is mentally ill~~ has a mental illness or person who is suffering from ~~substance~~
9 ~~abuse~~ a substance-related or addictive disorder is received or detained as a patient
10 or client. The term includes Veterans Administration and public health hospitals and
11 forensic facilities. "Treatment facility" includes but is not limited to the following,
12 and shall be selected with consideration of first, medical suitability; second, least
13 restriction of the person's liberty; third, nearness to the patient's usual residence; and
14 fourth, financial or other status of the patient, except that such considerations shall
15 not apply to forensic facilities:

16 (i) ~~Community mental health centers~~ Public and private behavioral health
17 services providers licensed pursuant to R.S. 40:2151 et seq.

18 (ii) ~~Private clinics~~ Licensed residential treatment facilities.

19 (iii) ~~Public or private halfway houses.~~

20 (iv) ~~Public or private nursing homes.~~

21 (v) ~~(iv)~~ Public or private general hospitals.

22 (vi) ~~(v)~~ Public or private mental psychiatric hospitals.

23 (vii) ~~Detoxification centers.~~

24 (viii) ~~Substance abuse clinics.~~

25 (ix) ~~Substance abuse in-patient facility.~~

26 (x) ~~(vi)~~ Forensic facilities.

27 (b) ~~Patients involuntarily hospitalized by emergency certificate or mental~~
28 ~~health treatment shall not be admitted to the facilities listed in Items (ii), (iii), (iv),~~
29 ~~(viii) or (x) of Subparagraph (a) of this Paragraph, except that patients~~ Clients in
30 custody of the Department of Public Safety and Corrections may be admitted to

1 forensic facilities by emergency certificate provided that judicial commitment
 2 proceedings are initiated during the period of treatment at the forensic facility
 3 authorized by emergency certificate. ~~Patients involuntarily hospitalized by~~
 4 ~~emergency certificate for substance abuse treatment shall not be admitted to the~~
 5 ~~facilities listed in Items (ii), (iii), (iv), or (x) of Subparagraph (a) of this Paragraph.~~
 6 Judicial commitments, however, may be made to any of the ~~above~~ facilities listed in
 7 Subparagraph (a) of this Paragraph except forensic facilities. However, in the case
 8 of any involuntary hospitalization as a result of such emergency certificate for
 9 ~~substance abuse~~ a substance-related or addictive disorder or in the case of any
 10 judicial commitment as the result of ~~substance abuse~~ a substance-related or addictive
 11 disorder, such commitment or hospitalization may be made to any of the ~~above~~
 12 facilities listed in Subparagraph (a) of this Paragraph, except forensic facilities,
 13 provided that such facility has a ~~substance abuse in-patient~~ substance-related or
 14 addictive disorder inpatient operation maintained separate and apart from any mental
 15 health ~~in-patient~~ inpatient operation at such facility.

16 * * *

17 (33)(a) "Addictive disorder" is a primary, chronic neurobiologic disease with
 18 genetic, psychosocial, and environmental factors influencing its development and
 19 manifestations. An addictive disorder is characterized by behaviors that include one
 20 or more of the following:

21 (i) Impaired control over drug use.

22 (ii) Compulsive use.

23 (iii) Continued use despite harm.

24 (iv) Cravings.

25 (b) Addictive disorders include mood-altering behaviors or activities or
 26 process addictions. Examples of process addictions include, without limitation,
 27 gambling, spending, shopping, eating, and sexual activity.

28 (34) "Behavioral health" is a term used to refer to both mental health and
 29 substance use.

1 (35) "Client" refers to a recipient of services who has been charged with or
 2 convicted of a crime and who requires special protection and restraint in a forensic
 3 treatment facility.

4 (36) "Legal guardian" means a person judicially or statutorily designated
 5 with the duty and authority to make decisions in matters having a permanent effect
 6 on the life and development of the individual on whose behalf the guardianship is
 7 established.

8 (37) "Local governing entity" means an integrated human services delivery
 9 system with local accountability and management and which provides behavioral
 10 health and developmental disabilities services through local human services districts
 11 and authorities.

12 (38) "State psychiatric hospital" means a public, state-owned and operated
 13 inpatient facility for the treatment of mental illness and substance-related and
 14 addictive disorders.

15 (39) "Substance-related disorders" encompass disorders relating to the use
 16 of drugs in any of the following classes, which are not fully distinct:

- 17 (a) Alcohol.
- 18 (b) Caffeine.
- 19 (c) Cannabis.
- 20 (d) Hallucinogens, with separate categories for phencyclidine or similarly
 21 acting arylcyclohexylamines and for other hallucinogens.
- 22 (e) Inhalants.
- 23 (f) Opioids.
- 24 (g) Sedatives, hypnotics, and anxiolytics.
- 25 (h) Stimulants, including amphetamine-type substances and cocaine.
- 26 (i) Tobacco.
- 27 (j) Other or unknown substances.

28 §3. Application of Chapter; costs

29 The provisions of this Chapter apply to persons who are suffering from
 30 mental illness or ~~substance abuse~~ substance-related or addictive disorders. Nothing

1 in this Chapter referring to costs shall be construed to defer or prevent the care of a
 2 person in a state ~~mental institution~~ psychiatric hospital or state treatment facility, nor
 3 ~~their~~ his release therefrom.

4 * * *

5 PART I-A. ~~MENTAL AND~~ BEHAVIORAL HEALTH SERVICES

6 PRESERVATION ACT

7 §11. Short title

8 This Part shall be known and may be cited as the "~~Mental and Behavioral~~
 9 Health Services Preservation Act".

10 §12. Legislative declaration of intent

11 It is the intent of the legislature to preserve vital state funding for ~~mental~~
 12 behavioral health services to ensure delivery of and access to quality care for those
 13 in desperate need of such services throughout the state. Many citizens in the state
 14 have limited access to ~~mental and~~ behavioral health services because of the massive
 15 cuts, both federal and state, in ~~mental and~~ behavioral health funding. The legislature
 16 also finds that the provision of high-quality ~~mental and~~ behavioral health services,
 17 regardless of setting, is of overriding importance. The state wholly supports efforts
 18 to assist individuals suffering from serious and persistent mental illness, substance-
 19 related or addictive disorders, or both in their efforts to participate fully in society.

20 As such, the ~~department~~ Louisiana Department of Health, referred to hereafter in this
 21 Part as the "department", should streamline the delivery of ~~mental and~~ behavioral
 22 health services through the prudent allocation of existing resources. The ~~Louisiana~~
 23 ~~Department of Health~~ department will improve the safety and health of individuals,
 24 families, and communities by providing leadership and establishing and participating
 25 in partnerships for the continuation of ~~mental and~~ behavioral health services
 26 throughout the state, including cooperative agreements, mergers, joint ventures, and
 27 consolidations among ~~mental and~~ behavioral health care facilities. Consumer and
 28 advocate participation in the process can only aid in the delivery of services to those
 29 most in need. To improve the quality of services available and promote treatment,
 30 which often involves the rehabilitation, recovery, and reintegration of persons

1 suffering from mental illness, substance-related or addictive disorders, or both, the
2 state should secure adequate funding for ~~mental and~~ behavioral health services and
3 require state departments to exercise fiscal responsibility in the allocation of these
4 resources.

5 §13. Management of ~~mental and~~ behavioral health resources

6 In the operational management of the office of behavioral health, the
7 department may guarantee the efficient and effective use and retention of the state's
8 scarce ~~mental and~~ behavioral health resources to adequately provide for the peace,
9 health, safety, and general welfare of the public, by ensuring the following:

10 (1) Accountability of efficient and effective services through state-of-the-art
11 quality and performance measures and statewide standards for monitoring quality of
12 service and performance and reporting of quality of service and performance
13 information. These processes may be designed so as to maximize the use of
14 available resources for direct care of people with who have a mental illness or a
15 substance-related or addictive disorder and to assure uniform data collection across
16 the state.

17 * * *

18 (3) Coordination of integration of services offered by department and ~~mental~~
19 ~~and~~ behavioral health communities, including the office of behavioral health and
20 ~~their~~ its respective contract providers, involved in the delivery of mental and
21 behavioral health treatment, along with local systems and groups, public and private,
22 such as state ~~mental~~ psychiatric hospitals, public health organizations, parish
23 authorities, child protection, and regional support networks, aimed at reducing
24 duplication in service delivery and promoting complementary services among all
25 entities that provide ~~mental and~~ behavioral health services to adults and children
26 throughout the state.

27 (4) Implementation of a system of reimbursement by the Medical Assistance
28 Program to private hospitals and to state hospitals for covered Medicaid services
29 that, to the extent possible, allocates funding in the areas of the state based on needs,
30 population, and acuity level as determined by the ~~Louisiana Department of Health~~

1 services available to those persons who are most in need and least able to pay. These
2 programs may achieve the following:

3 * * *

4 (3) Promote interagency collaboration by improving the integration and
5 effectiveness of state agencies responsible for ~~mental and~~ behavioral health care.

6 * * *

7 (9) Promote emerging best practices and increased quality of care in the
8 delivery of ~~mental and~~ behavioral health services.

9 B. The department may collaborate with ~~mental and~~ behavioral health
10 advocates, clinicians, physicians, professional organizations, ~~parish human service~~
11 ~~authorities~~ local governing entities, local citizens, consumers, and family members
12 in the planning, designing, and implementation of innovative mental and behavioral
13 health service programs and priorities in their respective regions throughout the state.

14 PART II. ~~INSTITUTIONS~~ FACILITIES AND PLACES FOR ~~MENTAL~~
15 BEHAVIORAL HEALTH PATIENTS OR CLIENTS

16 * * *

17 §21. State psychiatric hospitals ~~for persons with mental illness and addictive~~
18 ~~disorders~~

19 A. ~~The~~ For purposes of this Part, "state psychiatric hospital" refers to the
20 hospital at Jackson, known as the ~~East Louisiana State Hospital~~ Eastern Louisiana
21 Mental Health System, and the hospital at Pineville, known as the Central Louisiana
22 State Hospital, ~~and the hospital at Mandeville, known as the Southeast Louisiana~~
23 ~~Hospital, which~~ are designated as the hospitals for persons with who have a mental
24 ~~illness and addictive disorders~~ or a substance-related or addictive disorder until such
25 time as separate or other hospitals are established. The assistant secretary of the
26 office of behavioral health of the department may reorganize and consolidate the
27 administration of the hospitals or facilities, ~~including the Feliciana Forensic Facility,~~
28 ~~the Greenwell Springs Hospital, and the New Orleans Adolescent Hospital as~~
29 ~~necessary to comply with the provisions of the State Mental Health Plan.~~

1 an outpatient center for the care, treatment, and rehabilitation of persons ~~with~~ who
2 have a mental illness and persons ~~who are mentally defective~~ with intellectual or
3 developmental disabilities at the region level.

4 §23. Psychiatric inpatient units in state general hospitals

5 The department ~~shall~~ may establish psychiatric inpatient units in state-owned
6 or state-contracted general hospitals for the emergency and temporary care of cases
7 of acute mental illness.

8 §25. Provisions for close confinement of certain ~~mental~~ patients who have a mental
9 illness

10 A. At ~~institutions~~ hospitals that it may designate, the department may
11 provide facilities for the care and confinement of ~~mental~~ patients who have a mental
12 illness and who require close confinement in the interest of themselves and of the
13 public.

14 B. The department shall designate places of confinement for patients of
15 dangerous tendencies and for ~~those~~ clients charged with or convicted of a crime ~~or~~
16 ~~misdemeanor~~ who require special protection and restraint.

17 §25.1. Establishment of Feliciana Forensic Facility; authorization to establish
18 forensic facilities in New Orleans, Baton Rouge, Shreveport, and Alexandria

19 A. The forensic unit at ~~East Louisiana State Hospital~~ Eastern Louisiana
20 Mental Health System is hereby declared to be a separate and distinct facility from
21 East Louisiana State Hospital and hereafter shall be known as the Feliciana Forensic
22 Facility.

23 * * *

24 C.(1)(a) The ~~superintendent~~ director or administrator of any such facility
25 shall admit only those persons:

26 * * *

27 (v) Judicially committed to and transferred from any ~~state~~ hospital for
28 persons ~~with~~ who have a mental illness or ~~who are inebriate~~ substance-related or
29 addictive disorder.

1 (b) A transfer from any other ~~state~~ hospital shall be had only after the
 2 director or administrator of the transferring facility, in concurrence with two
 3 psychiatrists, has determined and certified in writing to such forensic facility that the
 4 person to be transferred is dangerous to others and that the transferring facility
 5 cannot adequately protect its staff and patients from such person.

6 (c) The decision to transfer shall not be made until after the person who is
 7 proposed to be transferred has had an opportunity to be heard regarding his actions
 8 upon which the proposed transfer is based by the director or administrator and two
 9 concurring psychiatrists.

10 * * *

11 (2)(a) The administrator of the Feliciana Forensic Facility shall refuse
 12 admission to any person if:

13 * * *

14 (iv) The person from a ~~state~~ hospital or correctional institution is not
 15 accompanied by a summary of the facts presented at the hearing at which the person
 16 objected to his transfer to the forensic facility and a summary of the person's
 17 objections.

18 * * *

19 D. The department may contract with local law enforcement agencies and
 20 the Department of Public Safety and Corrections to provide security personnel for
 21 ~~mental health patients~~ clients placed in such forensic units, or other facilities to
 22 which such ~~patients~~ clients may be temporarily referred for medical treatment.

23 §25.2. Granting of passes to ~~patients~~ Feliciana Forensic Facility clients

24 A. Notwithstanding any other provision of law to the contrary, including any
 25 provision of the Code of Criminal Procedure, the administrator of the Feliciana
 26 Forensic Facility, in his discretion, may grant any ~~patient~~ client committed to his
 27 custody a pass or furlough from the facility, except those ~~patients~~ clients who are
 28 under commitment to the Department of Public Safety and Corrections.

29 B. The administrator shall not grant any ~~patient~~ client a pass or furlough for
 30 release from the facility except upon the recommendation of the ~~patient's~~ client's

1 treating psychiatrist and with prior approval of the committing court. The
2 administrator may impose conditions on a pass or furlough. Any pass or furlough
3 granted shall be for a fixed period of time.

4 * * *

5 PART III. EXAMINATION, ADMISSION, COMMITMENT, AND
6 TREATMENT OF PERSONS SUFFERING FROM MENTAL ILLNESS AND
7 ~~SUBSTANCE ABUSE~~ SUBSTANCE-RELATED OR ADDICTIVE DISORDERS

8 §50. Declaration of policy

9 The underlying policy of this Chapter is as follows:

10 (1) That persons ~~with~~ who have a mental illness and persons suffering from
11 ~~substance abuse~~ a substance-related or addictive disorder be encouraged to seek
12 voluntary treatment.

13 * * *

14 (3) That continuity of care for persons ~~with~~ who have a mental illness and
15 persons suffering from ~~substance abuse~~ a substance-related or addictive disorder be
16 provided.

17 (4) That mental health and ~~substance abuse~~ substance-related and addictive
18 disorder treatment services be delivered as near to the place of residence of the
19 person receiving such services as is reasonably possible and medically appropriate.

20 * * *

21 (6) That no person solely as a result of mental illness, ~~or alcoholism~~
22 substance-related or addictive disorder, or incapacitation by alcohol shall be confined
23 in any jail, prison, correctional facility, or criminal detention center. This shall not
24 apply to persons arrested, charged, or convicted under Title 14 of the Louisiana
25 Revised Statutes of 1950.

26 * * *

27 §51. Procedures for admission

28 * * *

29 C. The Louisiana Department of Health, through its hospitals, ~~mental~~
30 behavioral health clinics, and similar ~~institutions~~, ~~shall have the duty to assist~~

1 facilities, may direct petitioners and other persons ~~in the preparation of~~ to appropriate
2 resources regarding petitions for commitment, requests for protective custody orders,
3 and requests for emergency certificates; upon request of such persons.

4 §51.1. Treatment facility; staff membership and institutional privileges; certain
5 ~~health care~~ healthcare providers

6 A.(1) Notwithstanding any provision of the law to the contrary, the
7 governing body of a treatment facility, as defined in R.S. 28:2, may grant staff
8 membership, specifically delineated institutional privileges, or both, to any duly
9 licensed, certified, or registered ~~health care~~ healthcare provider in accordance with
10 the needs and bylaws of the treatment facility, including but not limited to a
11 physician, psychiatrist, psychologist, medical psychologist, or psychiatric mental
12 health nurse practitioner, as defined in R.S. 28:2.

13 * * *

14 §52. Voluntary admissions; general provisions

15 A. Any person who ~~is mentally ill~~ has a mental illness or person who is
16 suffering from ~~substance abuse~~ a substance-related or addictive disorder may apply
17 for voluntary admission to a treatment facility. ~~The admitting physician may admit~~
18 ~~the person on either a formal or informal basis, as hereinafter provided.~~

19 B. Admitting physicians are encouraged to admit persons with who have a
20 mental illness or persons suffering from ~~substance abuse~~ a substance-related or
21 addictive disorder to treatment facilities on voluntary admission status whenever
22 medically feasible.

23 C. No director or administrator of a treatment facility shall prohibit any
24 person who ~~is mentally ill~~ has a mental illness or person who is suffering from
25 ~~substance abuse~~ a substance-related or addictive disorder from applying for
26 conversion of involuntary or emergency admission status to voluntary admission
27 status. Any patient on an involuntary admission status shall have the right to apply
28 for a writ of habeas corpus in order to have his admission status changed to voluntary
29 status.

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(2) Knowing and voluntary consent shall be determined by the ability of the individual to understand all of the following:

(a) That the treatment facility to which the patient is requesting admission is one for persons ~~with~~ who have a mental illness or persons suffering from ~~substance abuse~~ a substance-related or addictive disorder.

* * *

H.

* * *

(2)(a) Notwithstanding the ~~provision~~ provisions of Paragraph (1) of this Subsection, any licensed physician may administer medication to a patient without his consent and against his wishes in a situation which, in the reasonable judgment of the physician who is observing the patient during the emergency, constitutes a psychiatric or behavioral emergency. For purposes of this Paragraph a "psychiatric or behavioral emergency" occurs when a patient, as a result of mental illness, ~~substance abuse~~ a substance-related or addictive disorder, or intoxication, engages in behavior which, in the clinical judgment of the physician, places the patient or others at significant and imminent risk of damage to life or limb. The emergency administration of medication may be continued until the emergency subsides, but in no event shall it exceed forty-eight hours, except on weekends or holidays when it may be extended for an additional twenty-four hours.

(b) The physician shall make a reasonable effort to consult with the primary physician or primary care provider outside the facility that has previously treated the patient for his ~~mental~~ behavioral health condition at the earliest possible time, but in no event more than forty-eight hours after the emergency administration of medication has begun, except on weekends or holidays, when the time period may be extended an additional twenty-four hours. The physician shall record in the patient's file either the date and time of the consultation and a summary of the comments of the primary physician or primary care provider or, if the physician is

1 unable to consult with the primary physician or primary care provider, the date and
 2 time that a consultation with the primary physician or primary care provider was
 3 attempted.

4 §52.2. Formal voluntary admission

5 A. Any person who ~~is mentally ill~~ has a mental illness or person who is
 6 suffering from ~~substance abuse~~ a substance-related or addictive disorder desiring
 7 admission to a treatment facility for diagnosis ~~and/or~~ or treatment of a psychiatric
 8 disorder or ~~substance abuse~~ a substance-related or addictive disorder and who is
 9 deemed suitable for formal voluntary admission by the admitting physician may be
 10 so admitted upon his written request.

11 B. A patient admitted under the provisions of this Section shall not be
 12 detained in the treatment facility for longer than seventy-two hours after making a
 13 valid written request for discharge to the director or administrator of the treatment
 14 facility unless an emergency certificate is executed pursuant to R.S. 28:53, or unless
 15 judicial commitment is instituted pursuant to R.S. 28:54, ~~after making a valid written~~
 16 ~~request for discharge to the director of the treatment facility.~~

17 §52.3. Noncontested admission

18 A. A person who ~~is mentally ill~~ has a mental illness or person who is
 19 suffering from ~~substance abuse~~ a substance-related or addictive disorder who does
 20 not have the capacity to make a knowing and voluntary consent to a voluntary
 21 admission status and who does not object to his admission to a treatment facility may
 22 be admitted to a treatment facility as a noncontested admission. Such person shall
 23 be subject to the same rules and regulations as a person admitted on a voluntary
 24 admission status and his treatment shall be governed by the provisions of R.S.
 25 28:52(H).

26 B. A noncontested admission may be made by a physician to a treatment
 27 facility in order to initiate a complete diagnostic and evaluative study. The diagnosis
 28 and evaluation shall include complete medical, social, and psychological studies and,
 29 when medically indicated, any other scientific study which may be necessary in
 30 order to make decisions relative to the treatment needs of the patient. In the absence

1 of specified medical reasons, the diagnostic studies shall be completed in fourteen
2 days. Alternative community-based services shall be thoroughly considered.

3 C. Following a review of the diagnostic evaluation study, the director or
4 administrator of the treatment facility shall determine if the person is to remain on
5 noncontested status, is to be discharged, is to be converted to formal ~~or informal~~
6 voluntary status, or is to be involuntarily hospitalized pursuant to R.S. 28:53 or R.S.
7 28:54. Nothing in this Section shall be interpreted to prohibit the director of a
8 treatment facility from transferring the patient to another treatment facility when it
9 is medically indicated.

10 ~~C.~~ D. A person admitted pursuant to this Section may object to his admission
11 at any time. If the person informs a staff member of his desire to object to his
12 admission, a staff member shall assist him in preparing and submitting a valid
13 written objection to the director or administrator of the treatment facility. Upon
14 receipt of a valid objection, the director or administrator shall release the person
15 within seventy-two hours unless proceedings are instituted pursuant to R.S. 28:53 or
16 R.S. 28:54.

17 ~~D.~~ E. In no case shall a patient remain on noncontested status longer than
18 three months. Within that time, the patient must be converted to ~~either~~ a formal ~~or~~
19 ~~an informal~~ voluntary status, ~~or~~ be involuntarily hospitalized pursuant to R.S. 28:53
20 or R.S. 28:54, or be discharged.

21 §52.4. Admission by relative or legal guardian for substance-related or addictive
22 disorder treatment

23 A. A person suffering from ~~substance abuse~~ a substance-related or addictive
24 disorder may be admitted and detained at a ~~public or private general~~ hospital or a
25 ~~substance abuse in-patient~~ other treatment facility for observation, diagnosis, and
26 treatment for a medically necessary period ~~not to exceed twenty-eight days~~, when a
27 parent, spouse, legal guardian, or the major child of the person if that child has
28 attained the age of ~~18~~ eighteen years has admitted the person or caused him to be
29 admitted pursuant to the provisions of R.S. 28:53.2.

1 writing on the second certificate that the person remains dangerous to himself or
 2 others or gravely disabled, and that his condition is likely to improve during the
 3 extended period. The director shall inform the patient of the execution of the second
 4 certificate, the length of the extended period, and the specific reasons therefor, and
 5 shall also give notice of the same to the patient's nearest relative or other designated
 6 responsible party initially notified pursuant to Subsection F of this Section.

7 B.(1) Any physician, psychiatric mental health nurse practitioner, or
 8 psychologist may execute an emergency certificate only after an actual examination
 9 of a person alleged to ~~be mentally ill~~ have a mental illness or be suffering from
 10 ~~substance abuse~~ a substance-related or addictive disorder who is determined to be in
 11 need of immediate care and treatment in a treatment facility because the examining
 12 physician, psychiatric mental health nurse practitioner, or psychologist determines
 13 the person to be dangerous to self or others or to be gravely disabled. The actual
 14 examination of the person by a psychiatrist may be conducted by telemedicine
 15 utilizing video conferencing technology provided that a licensed ~~health care~~
 16 healthcare professional who can adequately and accurately assist with obtaining any
 17 necessary information including but not limited to the information listed in
 18 Paragraph (4) of this Subsection shall be in the examination room with the patient
 19 at the time of the video conference. A patient examined in such a manner shall be
 20 medically cleared prior to admission to a mental health treatment facility. Failure
 21 to conduct an examination prior to the execution of the certificate will be evidence
 22 of gross negligence.

23 (2) The certificate shall state:

24 * * *

25 (b) The objective findings of the physician, psychiatric mental health nurse
 26 practitioner, or psychologist relative to the physical or mental condition of the
 27 person, leading to the conclusion that the person is dangerous to self or others or is
 28 gravely disabled as a result of ~~substance abuse~~ a substance-related or addictive
 29 disorder or mental illness.

30 * * *

1 (d) The determination of whether the person examined is in need of
2 immediate care and treatment in a treatment facility because the patient is ~~either~~ any
3 of the following:

4 * * *

5 G.

6 * * *

7 (2) Within seventy-two hours of admission, the person shall be
8 independently examined by the coroner or his deputy who shall execute an
9 emergency certificate, pursuant to Subsection B of this Section, which shall be a
10 necessary precondition to the person's continued confinement. Except as provided
11 in Paragraph (7) of this Subsection, if the actual examination by the psychiatrist
12 referred to in Paragraph ~~(1) of Subsection B~~ (B)(1) of this Section is conducted by
13 telemedicine, the seventy-two-hour independent examination by the coroner shall be
14 conducted in person.

15 * * *

16 (6) When a person is confined in a treatment facility other than a state ~~mental~~
17 ~~institution~~ psychiatric hospital, the examining coroner in the parish where the patient
18 is confined shall be entitled to the usual fee paid for this service to the coroner of the
19 parish in which the patient is domiciled or residing. When a person is confined in
20 a state ~~mental institution~~ psychiatric hospital in a parish other than his parish of
21 domicile or residence, the examining coroner shall be entitled to the fee authorized
22 by law in his parish for the service. In either case, the fee shall be paid and accurate
23 records of such payments kept by the governing authority of the parish in which the
24 patient is domiciled or residing from parish funds designated for the purpose of
25 payment to the coroner. ~~All coroners~~ Each coroner shall keep accurate records
26 showing the number of patients confined in ~~their parishes~~ his parish pursuant to this
27 Section.

28 * * *

29 J.(1) Upon the request of a credible person of legal age who is financially
30 unable to afford a private physician or who cannot immediately obtain an

1 examination by a physician, the parish coroner may render, or the coroner or a judge
 2 of a court of competent jurisdiction may cause to be rendered by a physician, an
 3 actual examination of a person alleged to ~~be mentally ill~~ have a mental illness or be
 4 ~~suffering from substance abuse~~ a substance-related or addictive disorder and in need
 5 of immediate medical treatment because he is dangerous to himself or others or is
 6 gravely disabled. The actual examination of the person by a psychiatrist may be
 7 conducted by telemedicine utilizing video conferencing technology provided that a
 8 licensed ~~health care~~ healthcare professional who can adequately and accurately assist
 9 with obtaining any necessary information including but not limited to the
 10 information listed in Paragraph (B)(4) of this Section shall be in the examination
 11 room with the patient at the time of the video conference. If the coroner is not a
 12 physician he may deputize a physician to perform this examination. To accomplish
 13 the examination authorized by this Subsection, if the coroner or the judge is
 14 apprehensive that his own safety or that of the deputy or other physician may be
 15 endangered thereby, he shall issue a protective custody order pursuant to R.S.
 16 28:53.2.

17 (2) If the examining physician determines that the ~~above~~ standard provided
 18 in Paragraph (1) of this Subsection is met, he shall execute an emergency certificate
 19 and shall transport or cause to be transported the person named in the emergency
 20 certificate to a treatment facility. Failure to render an actual examination prior to
 21 execution of the emergency certificate shall be evidence of gross negligence.

22 (3) In any instance where the coroner or his deputy executes the first
 23 emergency certificate, the second emergency certificate shall not be executed by the
 24 coroner or his deputy, but the second emergency certificate may be executed by any
 25 other physician including a physician at the treatment ~~center~~ facility. However, if
 26 the first examination by the coroner is conducted by a psychiatrist utilizing video
 27 conferencing technology, the second examination shall be conducted in person.

28 K.(1)(a) Patients admitted by emergency certificate may receive medication
 29 and treatment without their consent, but no major surgical procedure or electroshock
 30 therapy may be performed without the written consent of a court of competent

1 jurisdiction after a hearing. With regard to the administration of medicine, if the
2 patient objects to being medicated, prior to making a final decision, the treating
3 physician shall make a reasonable effort to consult with the primary physician or
4 primary care provider outside of the facility that has previously treated the patient
5 for his ~~mental~~ behavioral health condition. The treating physician shall, prior to the
6 administration of such medication, record in the patient's file either the date and time
7 of the consultation and a summary of the comments of the primary physician or
8 primary care provider or, if the treating physician is unable to consult with the
9 primary physician or primary care provider, the date and time that a consultation
10 with the primary physician or primary care provider was attempted.

11 (b) Notwithstanding the provisions of Subparagraph (a) of this Paragraph,
12 any licensed physician may administer medication to a patient without his consent
13 and against his wishes in a situation which, in the reasonable judgment of the
14 physician who is observing the patient during the emergency, constitutes a
15 psychiatric or behavioral health emergency. For purposes of this Paragraph a
16 "psychiatric or behavioral health emergency" occurs when a patient, as a result of
17 mental illness, ~~substance abuse~~ a substance-related or addictive disorder, or
18 intoxication engages in behavior which, in the clinical judgment of the physician,
19 places the patient or others at significant and imminent risk of damage to life or limb.
20 The emergency administration of medication may be continued until the emergency
21 subsides, but in no event shall it exceed forty-eight hours, except on weekends or
22 holidays when it may be extended for an additional twenty-four hours.

23 (c) The physician shall make a reasonable effort to consult with the primary
24 physician or primary care provider outside the facility ~~that~~ who has previously
25 treated the patient for his ~~mental~~ behavioral health condition at the earliest possible
26 time, but in no event more than forty-eight hours after the emergency administration
27 of medication has begun, except on weekends or holidays, when the time period may
28 be extended an additional twenty-four hours. The physician shall record in the
29 patient's file either the date and time of the consultation and a summary of the
30 comments of the primary physician or primary care provider or, if the physician is

1 unable to consult with the primary physician or primary care provider, the date and
2 time that a consultation with the primary physician or primary care provider was
3 attempted.

4 * * *

5 L.(1) A peace officer or a peace officer accompanied by an emergency
6 medical service trained technician may take a person into protective custody and
7 transport him to a treatment facility for a medical evaluation when, as a result of his
8 personal observation, the peace officer or emergency medical service technician has
9 reasonable grounds to believe the person is a proper subject for involuntary
10 admission to a treatment facility because the person is acting in a manner dangerous
11 to himself or dangerous to others, is gravely disabled, and is in need of immediate
12 hospitalization to protect such a person or others from physical harm. The person
13 may ~~only~~ be transported only to ~~one of the following facilities:~~ a treatment facility
14 as defined in R.S. 28:2.

15 ~~(a) A community mental health center.~~

16 ~~(b) A public or private general hospital.~~

17 ~~(c) A public or private mental hospital.~~

18 ~~(d) A detoxification center.~~

19 ~~(e) A substance abuse clinic.~~

20 ~~(f) A substance abuse in-patient facility.~~

21 * * *

22 (3) In the case of a person suffering from ~~substance abuse~~ a substance-
23 related or addictive disorder and where ~~any of the above facilities are unavailable no~~
24 treatment facility is available, the peace officer and emergency medical service
25 technician may use whatever means or facilities available to protect the health and
26 safety of the person suffering from ~~substance abuse~~ a substance-related or addictive
27 disorder until such time as ~~any of the above facilities~~ a treatment facility ~~become~~
28 becomes available. In taking a person into protective custody the peace officer and
29 emergency medical service technician may take reasonable steps to protect
30 themselves. A peace officer or emergency medical service technician who acts in

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1 compliance with this ~~section~~ Section is acting in the course of his official duty and
2 ~~cannot~~ shall not be subjected subject to criminal or civil liability as a result thereof.

3 * * *

4 §53.2. Order for custody; grounds; civil liability; criminal penalty for making a false
5 statement

6 A. Any parish coroner or judge of a court of competent jurisdiction may
7 order a person to be taken into protective custody and transported to a treatment
8 facility or the office of the coroner for immediate examination when a peace officer
9 or other credible person executes a statement under private signature specifying that,
10 to the best of his knowledge and belief, the person ~~is mentally ill~~ has a mental illness
11 or is suffering from substance abuse a substance-related or addictive disorder and is
12 in need of immediate treatment to protect the person or others from physical harm.
13 The statement may include the following information:

14 (1) A statement of facts, including the affiant's observations, leading to the
15 conclusion that the person ~~is mentally ill~~ has a mental illness or is suffering from
16 substance abuse a substance-related or addictive disorder and is dangerous to himself
17 or others or gravely disabled.

18 * * *

19 B. Any parish coroner or judge of a court of competent jurisdiction may
20 order that a person be taken into protective custody and transported to a treatment
21 facility or the office of the coroner for immediate examination when a physician,
22 psychiatric mental health nurse practitioner, psychologist, or assigned case manager
23 pursuant to Part III-A of Chapter 1 of this Title presents to the coroner or judge an
24 order of involuntary outpatient treatment, and executes a statement specifying that
25 there is substantial evidence that the patient is not in compliance with the order and
26 there are reasonable grounds to believe that he poses a significant risk of being a
27 danger to self or others.

1 C. The order for custody shall be in writing, in the name of the state of
2 Louisiana, signed by the district judge or parish coroner, and shall state the
3 following:

4 * * *

5 (3) A description of the acts or threats which have led to the belief that the
6 person ~~is mentally ill~~ has a mental illness or is suffering from ~~substance abuse a~~
7 substance-related or addictive disorder and is in need of immediate hospitalization
8 to protect the person or others from physical harm, ~~and~~.

9 * * *

10 F. Any person who is found guilty of executing a statement that another
11 person ~~is mentally ill~~ has a mental illness or is suffering from ~~substance abuse a~~
12 substance-related or addictive disorder and is in need of immediate treatment to
13 protect the person or others that the affiant knows or should know is false may be
14 imprisoned, with or without hard labor, for not more than one year, or fined not more
15 than one thousand dollars.

16 * * *

17 §54. Judicial commitment; procedure

18 A. Any person of legal age may file with the court a petition which asserts
19 his belief that a person is suffering from mental illness which contributes or causes
20 that person to be a danger to himself or others or to be gravely disabled, or is
21 suffering from ~~substance abuse a~~ substance-related or addictive disorder which
22 contributes or causes that person to be a danger to himself or others or to be gravely
23 disabled and may thereby request a hearing. The petition may be filed in the judicial
24 district in which the respondent is confined, or if not confined, in the judicial district
25 where he resides or may be found. The hearing shall not be transferred to another
26 district except for good cause shown. A petitioner who is unable to afford an
27 attorney may seek the assistance of any legal aid society or similar agency if
28 available.

29 * * *

1 D.(1) As soon as practical after the filing of the petition, the court shall
2 review the petition and supporting documents, and determine whether there exists
3 probable cause to believe that the respondent is suffering from mental illness which
4 contributes to his being or causes him to be a danger to himself or others or gravely
5 disabled, or is suffering from ~~substance abuse~~ a substance-related or addictive
6 disorder which contributes to his being or causes him to be a danger to himself or
7 others or gravely disabled. If the court determines that probable cause exists, the
8 court shall appoint a physician, preferably a psychiatrist, or medical psychologist to
9 examine the respondent and make a written report to the court and the respondent's
10 attorney on the form provided by the office of behavioral health of the Louisiana
11 Department of Health. The court-appointed physician or medical psychologist may
12 be the respondent's treating physician or medical psychologist. The written report
13 shall be made available to counsel for the respondent at least three days before the
14 hearing. This report shall set forth specifically the objective factors leading to the
15 conclusion that the person has a mental illness or suffers from ~~substance abuse~~ a
16 substance-related or addictive disorder, the actions or statements by the person
17 leading to the conclusion that the mental illness or ~~substance abuse~~ substance-related
18 addictive disorder causes the person to be dangerous to himself or others or to be
19 gravely disabled and in need of immediate treatment as a result of such illness or
20 ~~abuse~~ disorder, and why involuntary confinement and treatment are indicated. The
21 following criteria should be considered by the physician or medical psychologist:

22 (a) The respondent is suffering from serious mental illness which contributes
23 or causes him to be dangerous to himself or others or to be gravely disabled or from
24 ~~substance abuse~~ a substance-related or addictive disorder which contributes or causes
25 him to be dangerous to himself or others or to be gravely disabled.

26 * * *

27 (3) If the respondent refuses to be examined by the ~~court appointed~~ court-
28 appointed physician or medical psychologist as herein provided, or if the judge, after
29 reviewing the petition and an affidavit filed pursuant to R.S. 28:53.2 or the report of
30 the treating physician or medical psychologist or the ~~court appointed~~ court-appointed

1 physician or medical psychologist, finds that the respondent is ~~mentally ill~~ has a
 2 mental illness or is suffering from ~~substance abuse~~ a substance-related or addictive
 3 disorder and is in need of immediate hospitalization to protect the person or others
 4 from physical harm, or that the respondent's condition may be markedly worsened
 5 by delay, then the court may issue a court order for custody of the respondent, and
 6 a peace officer shall deliver the respondent to a treatment facility designated by the
 7 court. The court shall also issue an order to the treatment facility authorizing
 8 detention of the respondent until the commitment hearing is completed, unless he is
 9 discharged by the director or administrator.

10 * * *

11 §55. Judicial hearings

12 * * *

13 B. The court shall provide the respondent a reasonable opportunity to select
 14 his own counsel. In the event the respondent does not select counsel and is unable
 15 to pay for counsel, or in the event counsel selected by the respondent refuses to
 16 represent ~~said~~ the respondent or is not available for such representation, then the
 17 court shall appoint counsel for the respondent provided by the mental health
 18 advocacy service. Reasonable compensation of appointed counsel shall be
 19 established by the court and may be ordered paid by the respondent or the petitioner
 20 in the discretion of the court if either is found financially capable. If it is determined
 21 by the court that the costs shall not be borne by the respondent or the petitioner, then
 22 compensation to the attorney shall be paid from funds appropriated to the judiciary.

23 * * *

24 E.(1) If the court finds by clear and convincing evidence that the respondent
 25 is dangerous to self or others or is gravely disabled, as a result of ~~substance abuse~~ a
 26 substance-related or addictive disorder or mental illness, it shall render a judgment
 27 for his commitment. After considering all relevant circumstances, including any
 28 preference of the respondent or his family, the court shall determine whether the
 29 respondent should be committed to a treatment facility which is medically suitable
 30 and least restrictive of the respondent's liberty. However, if the placement

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1 determined by the court is unavailable, the court shall commit the respondent to the
 2 Louisiana Department of Health for placement in a state treatment facility until such
 3 time as an opening is available for transfer to the treatment ~~center~~ facility determined
 4 by the court, unless the respondent waives the requirement for such transfer. Within
 5 fifteen days following an alternative placement, the department shall submit a report
 6 to the court stating the reasons for such placement and seeking court approval of the
 7 placement.

8 * * *

9 (3) Unless prohibited by the respondent, the department shall notify the
 10 respondent's family of his placement at ~~and/or~~ or transfer to a state treatment facility.

11 (4) The director or administrator shall notify the court in writing when a
 12 patient has been discharged or conditionally discharged.

13 (5) The court order shall order a suitable person to convey such person to the
 14 treatment facility and deliver respondent, together with a copy of the judgment and
 15 certificates, to the director or administrator. In appointing a person to execute the
 16 order, the court should give preference to a legal guardian, near relative, ~~or~~ friend of
 17 the respondent.

18 * * *

19 F. Notice of any action taken by the court shall be given to the respondent
 20 and his attorney as well as to the director or administrator of the designated treatment
 21 facility in such manner as the court concludes would be appropriate under the
 22 circumstances.

23 G. Each court shall keep a record of the cases relating to persons ~~with~~ who
 24 have a mental illness coming before it under this Title and the disposition of ~~them~~
 25 those cases. It shall also keep on file the original petition and certificates of
 26 physicians required by this Section, or a microfilm duplicate of such records. All
 27 records maintained in the courts under the provisions of this Section shall be sealed
 28 and available only to the respondent or his attorney, unless the court, after hearing

1 held with notice to the respondent, determines such records should be disclosed to
 2 a petitioner for cause shown.

3 * * *

4 I.(1)(a) A patient confined to a treatment facility by judicial commitment
 5 may receive medication and treatment without his consent, but no major surgical
 6 procedures or electroshock therapy may be performed without the written authority
 7 of a court of competent jurisdiction after a hearing. With regard to the
 8 administration of medicine, if the patient objects to being medicated, prior to making
 9 a final decision, the treating physician shall make a reasonable effort to consult with
 10 the primary physician or the primary care provider outside of the facility ~~that~~ who
 11 has previously treated the patient for his ~~mental~~ behavioral health condition. The
 12 treating physician shall, prior to the administration of such medication, record in the
 13 patient's file either the date and time of the consultation and a summary of the
 14 comments of the primary physician or primary care provider or, if the treating
 15 physician is unable to consult with the primary physician or primary care provider
 16 the date and time that a consultation with the primary physician or primary care
 17 provider was attempted.

18 (b) Notwithstanding the provisions of Subparagraph (a) of this Paragraph,
 19 any licensed physician may administer medication to a patient without his consent
 20 and against his wishes in situations which, in the reasonable judgment of the
 21 physician who is observing the patient during the emergency, constitutes a
 22 psychiatric or behavioral health emergency. For purposes of this Paragraph, a
 23 "psychiatric or behavioral health emergency" occurs when a patient, as a result of
 24 mental illness, ~~substance abuse~~ a substance-related or addictive disorder, or
 25 intoxication engages in behavior which, in the clinical judgment of the physician,
 26 places the patient or others at significant and imminent risk of damage to life or limb.
 27 The emergency administration of medication may be continued until the emergency
 28 subsides, but in no event shall it exceed forty-eight hours, except on weekends or
 29 holidays when it may be extended for an additional twenty-four hours.

1 (c) The physician shall make a reasonable effort to consult with the primary
 2 physician or primary care provider outside the facility ~~that~~ who has previously
 3 treated the patient for his ~~mental~~ behavioral health condition at the earliest possible
 4 time, but in no event more than forty-eight hours after the emergency administration
 5 of medication has begun, except on weekends or holidays, when the time period may
 6 be extended an additional twenty-four hours. The physician shall record in the
 7 patient's file either the date and time of the consultation and a summary of the
 8 comments of the primary physician or primary care provider or, if the physician is
 9 unable to consult with the primary physician or primary care provider, the date and
 10 time that a consultation with the primary physician or primary care provider was
 11 attempted.

12 (2) If the director or administrator of the hospital, in consultation with two
 13 physicians, determines that the condition of a committed patient is of such critical
 14 nature that it may be life-threatening unless major surgical procedures or
 15 electroshock treatment is administered, such measures may be performed without the
 16 consent otherwise provided for in this Section.

17 J. No director or administrator of a treatment facility shall prohibit any
 18 person who ~~is mentally ill~~ has a mental illness or person who is suffering from
 19 ~~substance abuse~~ a substance-related or addictive disorder from applying for
 20 conversion of involuntary or emergency admission status to voluntary admission
 21 status. Any patient on an involuntary admission status shall have the right to apply
 22 for a writ of habeas corpus to have his admission status changed to voluntary status.

23 §56. Judicial commitment; review; appeals

24 A.(1)(a) Except as provided in Subparagraph (b) of this Paragraph, all
 25 judicial commitments except those for ~~alcoholism~~ alcohol use disorder shall be for
 26 a period not to exceed one hundred eighty days. The period of commitment shall
 27 expire at the end of the judicial commitment period, and the patient, if not converted
 28 to a voluntary status, shall be discharged unless a petition for judicial commitment
 29 has been filed prior to the expiration of the commitment period. If the court finds by
 30 clear and convincing evidence that the patient is dangerous to self or others or is

1 gravely disabled as a result of mental illness, it shall render a judgment for his
2 commitment for an additional period. Except as provided in Subparagraph (b) of
3 this Paragraph, each additional judicial commitment shall expire at the end of one
4 hundred eighty days.

5 * * *

6 (2)

7 * * *

8 (b) All judicial commitments shall be reviewed by the court issuing the order
9 for commitment every ninety days, except those for ~~alcoholism~~ alcohol use disorder
10 and except those individuals committed pursuant to Code of Criminal Procedure
11 Article 648(B) whose cases shall continue to be reviewed annually. The director or
12 administrator of the treatment facility to which the person has been judicially
13 committed shall issue reports to the court and to counsel of record at these intervals
14 setting forth the patient's response to treatment, his current condition, and the reasons
15 why continued involuntary treatment is necessary to improve the patient's condition
16 or to prevent it from deteriorating. These reports shall be treated by the court as
17 confidential and shall not be available for public examination, nor shall they be
18 subject to discovery in any proceedings other than those initiated pursuant to this
19 Title.

20 * * *

21 B. A commitment for ~~alcoholism~~ alcohol use disorder shall expire after
22 forty-five days and the patient, if not converted to a voluntary status, shall be
23 discharged, unless the court, upon application by the director or administrator of the
24 treatment facility, finds that continued involuntary treatment is necessary and orders
25 the patient recommitted for a period not to exceed sixty days; however, not more
26 than two such sixty-day commitments may be ordered in connection with the same
27 continuous confinement.

28 C. Notwithstanding an order of judicial commitment, the director or
29 administrator of the treatment facility to which the individual is committed is
30 encouraged to explore treatment measures that are medically appropriate and less

CODING: Words in ~~struck-through~~ type are deletions from existing law; words underscored are additions.

1 restrictive. The director or administrator may at any time convert an involuntary
 2 commitment to a voluntary one should he deem that action medically appropriate.
 3 He shall inform the court of any action in that regard. The director or administrator
 4 may discharge any patient if in his opinion discharge is appropriate. The director or
 5 administrator shall not be legally responsible to any person for the subsequent acts
 6 or behavior of a patient discharged in good faith.

7 * * *

8 G.(1) A person who is judicially committed may be conditionally discharged
 9 for a period of up to one hundred twenty days by the director or administrator or by
 10 the court. The patient may be required to report for outpatient treatment as a
 11 condition of his release. The terms and conditions of the conditional discharge shall
 12 be specifically set forth in writing and signed by the patient. A copy of the
 13 conditional discharge shall be given to the patient and explained to him before he is
 14 discharged.

15 (2) If the patient is conditionally discharged by the director or administrator,
 16 a copy of the conditional discharge shall be sent to the court which judicially
 17 committed him. If the patient is conditionally discharged by the court, a copy of the
 18 conditional discharge shall be sent to the facility to which the patient has been
 19 committed.

20 (3) If a patient does not comply with the terms and conditions of his
 21 conditional discharge, he is subject to any of the procedures for involuntary
 22 treatment, including but not limited to the issuance of an order for custody and the
 23 execution of an emergency certificate. A conditionally discharged patient who is
 24 confined pursuant to any of these involuntary procedures shall have all rights of an
 25 involuntary patient, including the right to demand a probable cause hearing, the right
 26 to periodic reports and review, and a hearing pursuant to Subsections A and B of this
 27 Section.

28 (4) An extension of a conditional discharge may be granted upon application
 29 by the director or administrator of the treatment facility to the court and notification
 30 to respondent's counsel of record. The court may grant the extension of the

1 conditional discharge for a period of up to one hundred twenty days. No further
2 extension may be made without a contradictory hearing. The burden of proof is on
3 the director or administrator of the treatment facility to show why continued
4 treatment is necessary.

5 * * *

6 §59. Commitment of prisoners

7 A. Any person acquitted of a crime ~~or misdemeanor~~ by reason of insanity or
8 mental defect may be committed to the proper institution in accordance with Code
9 of Criminal Procedure Arts. 654 et seq.

10 * * *

11 C. Any person serving a sentence who ~~becomes mentally ill~~ develops a
12 mental illness may be committed to the proper institution in the manner provided for
13 judicial commitment by the district court of the place of incarceration and
14 contradictorily with the ~~superintendent~~ director or administrator of the place of
15 incarceration or with the sheriff of that parish. The period of commitment shall be
16 credited against the sentence imposed by the court.

17 D. The department shall designate ~~institutions~~ treatment facilities for the care
18 of ~~mental patients~~ clients who have a mental illness committed in accordance with
19 this Section.

20 §62. Commitment to United States veterans and public health service hospitals

21 A. The judge of the civil district court may commit to a United States
22 veterans hospital or United States public health service hospital any eligible
23 incompetent veteran or other person who is in need of ~~institutional~~ inpatient
24 psychiatric care.

25 B. Prior to commitment, the ~~superintendent~~ director or administrator of the
26 hospital shall have indicated his willingness to accept the patient and the ability to
27 care for him. Upon admission, the patient is subject to the rules and regulations of
28 the hospital and its officials are vested with the same powers exercised by
29 ~~superintendents~~ directors or administrators of state ~~mental~~ psychiatric hospitals with
30 reference to the retention of custody of the committed patient.

1 C. In the commitment of patients ~~under~~ pursuant to the provisions of this
 2 Section, the court shall notify the patient of the proceedings and shall give him an
 3 opportunity to appear and defend himself.

4 * * *

5 §64. Mental Health Advocacy Service; creation; board of trustees; organization;
 6 powers; duties

7 * * *

8 F.(1) Any attorney representing a person ~~with~~ who has a mental illness or a
 9 respondent as defined ~~herein~~ in R.S. 28:2 shall have ready access to view and copy
 10 all mental health and developmental disability records pertaining to his client, unless
 11 the client objects. If the patient or respondent later retains a private attorney to
 12 represent him, the mental health advocacy service shall destroy all copies of records
 13 pertaining to his case.

14 (2) Any attorney representing a person ~~with~~ who has a mental illness or a
 15 respondent as defined ~~herein~~ in R.S. 28:2 shall have the opportunity to consult with
 16 his client whenever necessary in the performance of his duties. A treatment facility
 17 shall provide adequate space and privacy for the purpose of attorney-client
 18 consultation.

19 * * *

20 §67. Petition to the court

21 A petition for an order authorizing involuntary outpatient treatment may be
 22 filed in the judicial district in the parish in which the patient is present or reasonably
 23 believed to be present. A petition to obtain an order authorizing involuntary
 24 outpatient treatment may be initiated by one of the following persons:

25 (1) The director or administrator of a hospital in which the patient is
 26 hospitalized.

27 * * *

28 (3) The director of the ~~human service district~~ local governing entity, or his
 29 designee, ~~or the manager of the regional office of the Louisiana Department of~~

1 Health, ~~office of behavioral health, or his designee,~~ in the parish in which the patient
2 is present or reasonably believed to be present.

3 * * *

4 §69. Procedure

5 A.(1) Upon the filing of the petition authorized by R.S. 28:67, the court shall
6 assign a time and place for a hearing, which may be conducted before any judge in
7 the judicial district, within five days, and shall cause reasonable notice thereof and
8 a copy of the petition to be served upon the respondent, respondent's attorney, the
9 petitioner and the director of the ~~human service district or the regional manager of~~
10 ~~the Louisiana Department of Health, office of behavioral health,~~ local governing
11 entity in the parish where the petition has been filed. The notice shall inform the
12 respondent that he has a right to be present, a right to counsel, which may be
13 appointed, if he is indigent or otherwise qualified, has the right to counsel appointed
14 to represent him by the Mental Health Advocacy Service, and a right to cross
15 examine witnesses. Continuances shall be granted only for good cause shown.

16 * * *

17 §70. Written treatment plan for involuntary outpatient treatment

18 A. The court shall not order involuntary outpatient treatment unless an
19 examining physician, psychiatric mental health nurse practitioner, or psychologist
20 appointed by the appropriate director of the ~~human service district or regional~~
21 ~~manager of the Louisiana Department of Health, office of behavioral health,~~ local
22 governing entity develops and provides to the court a proposed written treatment
23 plan. The written treatment plan shall be developed by a treatment team which shall
24 include a case manager, clinical social worker, and licensed physician, psychiatrist,
25 psychiatric mental health nurse practitioner, or psychologist and other specialized
26 service providers as deemed appropriate by the director ~~or regional manager~~ as well
27 as the patient and upon his request, an individual significant to him and concerned
28 with his welfare. The written treatment plan shall include appropriate services to
29 provide care coordination. Such services shall include case management services or
30 assertive community treatment teams. The written treatment plan shall also include

1 appropriate categories of services, as set forth in Subsection E of this Section, which
2 such team recommends the patient should receive. If the written treatment plan
3 includes medication, it shall state whether the medication should be self-
4 administered or administered by authorized personnel, and shall specify type and
5 dosage range of medication most likely to provide maximum benefit for the patient.

6 B. If the written treatment plan includes ~~alcohol or substance abuse~~
7 substance-related or addictive disorder counseling and treatment, it may include a
8 provision requiring testing for either alcohol or illegal substances provided the
9 clinical basis for recommending such plan provides sufficient facts for the court to
10 find all of the following:

11 (1) The patient has a history of ~~alcohol or substance abuse~~ a substance-
12 related or addictive disorder that is clinically related to the mental illness.

13 * * *

14 E.

15 * * *

16 (2) Services may include, but are not limited to, the following:

17 * * *

18 (f) ~~Alcohol or substance abuse~~ Substance-related or addictive disorder
19 treatment.

20 * * *

21 §71. Disposition

22 * * *

23 B. If the court finds by clear and convincing evidence that the patient meets
24 the criteria for involuntary outpatient treatment, and no less restrictive alternative is
25 feasible, the court shall order that the patient receive involuntary outpatient treatment
26 for an initial period not to exceed one year. The court shall state reasons why the
27 proposed treatment plan is the least restrictive treatment appropriate and feasible for
28 the patient. The order shall state the categories of involuntary outpatient treatment
29 as set forth in R.S. 28:70, which the patient is to receive, and the court may not order
30 treatment that has not been recommended by the physician, psychiatric mental health

1 nurse practitioner, or psychologist in consultation with the treatment team and
 2 included in the written treatment plan. The plan shall be certified by the director of
 3 the ~~human service district or the regional manager of the Louisiana Department of~~
 4 ~~Health, office of behavioral health,~~ local governing entity responsible for services
 5 in the district where the petition is filed, as offering services which are available
 6 through their offices. The court shall not order an outpatient commitment unless the
 7 director ~~or regional manager~~ so certifies.

8 C. If the court finds by clear and convincing evidence that the patient meets
 9 the criteria for involuntary outpatient treatment, and a written proposed treatment
 10 plan has not been submitted, the court shall order the director of the ~~human service~~
 11 ~~district or the regional manager of the Louisiana Department of Health, office of~~
 12 ~~behavioral health,~~ local governing entity to provide a plan and testimony within five
 13 days of the date of the order.

14 * * *

15 E. If the petitioner is the director or administrator of a hospital that operates
 16 an involuntary outpatient treatment program, the court order shall direct the hospital
 17 to provide all categories of involuntary outpatient treatment services. If the hospital
 18 does not have such a program or if the patient is discharged to a different ~~district or~~
 19 ~~region~~ local governing entity, or if the director of the ~~human service district or~~
 20 ~~regional manager for the Louisiana Department of Health, office of behavioral~~
 21 ~~health,~~ local governing entity has filed the petition and certified services are
 22 available, the court order shall require the appropriate director ~~or regional manager~~
 23 to provide for all categories of involuntary outpatient treatment services.

24 F. The director ~~or regional manager~~ shall apply for court approval prior to
 25 instituting a proposed material change in the involuntary outpatient treatment order
 26 unless such change is contemplated in the order. For purposes of this Subsection, a
 27 material change shall mean an addition or deletion of a category of involuntary
 28 outpatient treatment service, or any deviation without the consent of the patient from
 29 the terms of an existing order relating to the administration of psychotropic drugs,
 30 or a change of residence from one ~~district or region~~ local governing entity to another.

1 Any application for court approval shall be served upon all persons required to be
2 served with notice of a petition for an order authorizing involuntary outpatient
3 treatment. Either party may move for a hearing on the application. If a motion is not
4 filed within five days from the date the application is filed, the court shall grant the
5 application.

6 * * *

7 §72. Application for additional periods of treatment

8 A. The court order for outpatient treatment shall expire at the end of the
9 specified period unless a petition or motion for an extension has been filed. If the
10 director ~~or regional manager~~ determines that a patient requires further involuntary
11 outpatient treatment, he shall file a petition or motion for continued treatment prior
12 to the expiration of the initial involuntary outpatient treatment ordered by the court.
13 If a patient has been ordered to receive outpatient treatment for four consecutive six-
14 month to one-year periods, the period of any subsequent order may exceed one year
15 but shall not exceed two years.

16 * * *

17 §73. Application to stay, vacate, or modify

18 In addition to any right or remedy available by law, the patient may apply to
19 the court to stay, vacate, or modify the order and he shall notify the director ~~or~~
20 ~~manager~~ of his application.

21 * * *

22 §91. Transfer to ~~mental institution~~ psychiatric hospital

23 A. The judge shall designate or shall request the ~~superintendent~~ administrator
24 to provide an attendant to ~~conduct~~ transfer the patient to the ~~institution~~ psychiatric
25 hospital and may authorize the employment of assistants if necessary.

26 B. Wherever practicable, the ~~mental~~ patient to be hospitalized shall be
27 permitted to be accompanied by one or more of his friends or relatives.

28 ~~Upon delivering the patient, the attendant shall indorse that fact upon a~~
29 ~~warrant and the superintendent receiving the patient shall sign the warrant in~~
30 ~~acknowledgment.~~

1 §92. Transfer of patients from military establishments

2 A. Any resident and rightful charge upon the state who ~~becomes mentally~~
 3 ~~ill~~ suffers from a mental illness while in military service and is returned to the state
 4 because of need of ~~institutional~~ inpatient psychiatric care; shall be directly
 5 transferred from the military establishment to a state psychiatric hospital, provided
 6 arrangements to receive him are made in advance with the ~~superintendent~~ hospital
 7 administrator.

8 B. Unless sooner discharged from military service, the patient shall be
 9 detained for a period of observation not to exceed thirty days. If it is found that he
 10 should remain at the hospital, he shall, after discharge from military service, be
 11 committed in accordance with the provisions of this Chapter.

12 §93. Transfer of veterans to United States veterans hospitals

13 A. Any veteran eligible for treatment in a United States veterans hospital
 14 who has been committed to a ~~mental~~ psychiatric hospital within the state may be
 15 transferred to a United States veterans hospital.

16 B. The transfer shall be by order of the committing court or by order of the
 17 ~~superintendent~~ director or administrator of the ~~mental~~ psychiatric hospital in which
 18 the veteran is confined or by order of the division if the veteran is on leave.

19 §94. Transfer of patients between ~~institutions~~ psychiatric hospitals

20 A.(1) Except as otherwise provided in this Subsection, the department may
 21 transfer any patient from one ~~mental institution~~ psychiatric hospital to another if
 22 applicable eligibility criteria are met. Moreover, the ~~superintendent of an institution~~
 23 administrator of a psychiatric hospital may request the department to transfer a
 24 patient when he believes that a transfer is necessary.

25 ~~(1)~~ (2) A patient may be transferred to or from a private ~~mental institution~~
 26 psychiatric hospital only upon the joint application of the ~~superintendent~~ director or
 27 administrator of that ~~institution~~ hospital and of the legal ~~or natural~~ guardian or the
 28 person liable for the support of the patient. However, no private ~~mental institution~~
 29 psychiatric hospital shall be obligated to retain a patient because of the refusal to
 30 sign the application by the legal guardian or the person liable for support.

1 (2) (3) A person under sentence or acquitted of a crime or misdemeanor on
 2 the ground of mental illness or ~~defect~~ disability shall be transferred only upon
 3 authority of the committing court.

4 (3) (4) A voluntary patient shall be transferred only with his written consent.

5 * * *

6 §96. Discharge by the ~~superintendent~~ administrator or treating physician

7 A. Except as otherwise provided in this Section, the ~~superintendent~~
 8 administrator or treating physician may discharge any patient committed to his
 9 ~~institution~~ a psychiatric hospital if he believes that the patient has sufficiently
 10 recovered and that no harm will result from his discharge.

11 B. The ~~superintendent~~ administrator or treating physician shall as frequently
 12 as practicable, but not less often than every six months, examine or cause to be
 13 examined every patient and may discharge the patient and immediately make a report
 14 thereof to the ~~division~~ court when necessary or appropriate.

15 C. A ~~patient~~ client committed in accordance with the provisions of Article
 16 ~~267~~ 648 of the Code of Criminal Procedure shall be discharged only in the manner
 17 provided in that Article.

18 * * *

19 E. A patient who has shown dangerous tendencies shall be discharged upon
 20 conditional release with the written consent of the ~~division~~ court after an
 21 examination and after sufficient guarantee of proper supervision of the patient by a
 22 ~~reputable~~ person who is approved by the court.

23 F. A patient whose discharge is opposed by a legal guardian, relative, or
 24 other interested person shall be discharged only after the person opposing has been
 25 notified and given an opportunity to state his reasons why the patient should be
 26 detained for further care and treatment.

27 G. A ~~mental defective~~ patient who has a mental illness who no longer
 28 requires treatment may be discharged with the approval of the ~~division~~ attending
 29 physician and treatment team, and ~~with the approval of the committing court if~~
 30 ~~commitment was by court order~~.

1 H. A ~~mental defective~~ patient who has a mental illness and is convicted of
2 a crime or misdemeanor prior to his transfer to an ~~institution for mental defectives~~
3 a psychiatric hospital shall not be discharged prior to the time he might have been
4 discharged from his original place of detention.

5 §96.1. Discharge by the ~~superintendent~~ director or administrator of a private ~~mental~~
6 psychiatric hospital

7 A. Except as otherwise provided in this Section the ~~superintendent~~ director,
8 administrator, or head of a private ~~mental~~ psychiatric hospital may discharge any
9 patient committed to his ~~institution~~ hospital only on the certificate of either two
10 physicians, or one physician and one psychologist, medical psychologist, or
11 psychiatric mental health nurse practitioner stating that the patient has sufficiently
12 recovered and that no harm will result from his discharge.

13 B. A patient committed in accordance with the provisions of Article ~~267~~ 648
14 of the Code of Criminal Procedure shall be discharged only in the manner provided
15 in that Article.

16 * * *

17 D. A patient whose discharge from a private ~~mental~~ psychiatric hospital is
18 opposed by a legal guardian, relative, or other interested person shall be discharged
19 only after the person opposing has been notified and given an opportunity to state the
20 reasons why the patient should be detained for further care and treatment.

21 E. A patient committed to a private ~~mental~~ psychiatric hospital who has
22 shown dangerous tendencies shall be discharged only upon the certificate of either
23 two physicians, or one physician and one psychologist, medical psychologist, or
24 psychiatric mental health nurse practitioner after an examination, and after sufficient
25 guarantee has been provided of proper supervision of the patient by a ~~reputable~~
26 person who is approved by the court.

27 F. A ~~mental defective who~~ patient who has a mental illness and no longer
28 requires treatment may be discharged on the certificate of either two physicians, or
29 one physician and one psychologist, medical psychologist, or psychiatric mental

1 health nurse practitioner and with the approval of the committing court if the
 2 commitment was by criminal court order.

3 §97. Discharge by the department

4 The department may order the examination and the discharge of any patient,
 5 except those committed in accordance with R.S. 28:59 and under Title XXI relating
 6 to insanity proceedings of the Code of Criminal Procedure, if as a result of the
 7 examination it believes that the patient should no longer be detained. When a
 8 discharge in accordance with this Section is contemplated, the department shall give
 9 notice to the ~~superintendent~~ director or administrator and to the person who ~~caused~~
 10 filed the original petition causing the patient to be committed, in order that they may
 11 state their reasons why the patient should be detained for further treatment.

12 §98.2. Immunity of ~~superintendent and mental~~ psychiatric hospital and director or
 13 administrator

14 Any detentions, confinements, commitments or discharges made of a ~~mental~~
 15 patient who has a mental illness in accordance with this Chapter to any state or
 16 private ~~mental psychiatric hospital or institution~~ by the ~~superintendent~~ director or
 17 administrator thereof, acting in good faith, reasonably and without negligence, are
 18 hereby declared to be administrative acts of the ~~superintendent and/or~~ director,
 19 administrator, or the hospital, and the ~~superintendent~~ director, administrator, and the
 20 hospital are hereby granted immunity from liability for damages to any patient so
 21 detained, confined, or committed for false imprisonment or otherwise; provided,
 22 however, that the ~~superintendent and/or~~ director, administrator, or the hospital shall
 23 not thereby be exempt from liability for negligence in the care or treatment of such
 24 patient.

25 §99. Discharge by lapse of time

26 Any patient continuously absent from ~~an institution~~ a psychiatric hospital
 27 without authorized leave for ~~twelve months~~ seventy-two hours is automatically
 28 discharged and may be readmitted only according to law. This Section ~~does~~ shall not
 29 apply to ~~mental defectives or epileptics, whose leaves are indefinite and who can be~~

1 ~~returned at any time until formal discharge, nor to patients~~ clients committed in
2 accordance with R.S. 28:59 or Code of Criminal Procedure Article 648 or 654.

3 §100. Leaves of absence for patients

4 A. The ~~superintendent~~ treating physician may grant to patients leaves of
5 absence for such time and upon such conditions as he prescribes. In granting leave,
6 the ~~superintendent~~ director or administrator is subject to the restrictions provided in
7 R.S. 28:96.

8 B. A patient on leave may be returned at any time by the ~~superintendent~~
9 director, administrator, or the person to whom he has been released. ~~The cost of~~
10 ~~return shall be paid by the latter.~~

11 ~~Mental defectives and epileptics, whose leaves are indefinite, can be returned~~
12 ~~at any time until formal discharge, but other patients shall renew their leaves yearly~~
13 ~~or are liable to become automatically discharged in accordance with R.S. 28:99.~~

14 * * *

15 §101. Boarding out patients

16 A. Under conditions indicating rehabilitation possibilities, the ~~superintendent~~
17 director or administrator, with the consent of the department, may permit patients to
18 board out with responsible persons who may be paid for their care of the patients.
19 This Section does not apply to ~~patients~~ clients committed in accordance with R.S.
20 28:59.

21 ~~A.~~ B. In determining the amount to be paid, the value of any services to be
22 rendered by the patient while boarding shall be considered and should the services
23 of the patient justify, he shall be paid a sum in excess of his board to compensate him
24 for these services.

25 ~~B.~~ C. The ~~superintendent~~ director or administrator may require the person
26 applying to board a patient to give bond with security for the proper care of the
27 patient.

28 ~~C.~~ D. Agents of the ~~institution~~ state psychiatric hospital shall ~~visit~~ frequently
29 visit every boarding patient. If it is determined that the patient is not being cared for

1 properly, the ~~superintendent~~ director or administrator shall recall him to the
 2 ~~institution~~ state psychiatric hospital with the consent of the department.

3 §102. ~~Return~~ State psychiatric hospitals; return of escaped patients

4 Any escaped patient from a state psychiatric hospital shall be returned at the
 5 expense of the ~~institution~~ state psychiatric hospital from which he ~~escaped~~ left
 6 without authorization unless his discharge is granted before his return.

7 §103. Deportation of nonresident patients

8 A. The department or executive authority of this state may return any
 9 nonresident patient to the state or ~~county~~ country of which he is a legal resident.

10 Pending the return, the department shall provide necessary temporary care for the
 11 patient. He shall be suitably clothed and, if necessary, shall be accompanied by an
 12 attendant who shall deliver the patient with due care to the proper officials at the
 13 destination. If the patient is able to travel alone, he shall be provided with sufficient
 14 funds for sustenance and travel.

15 B. The department or executive authority of this state may enter into
 16 agreements with other states for reciprocity in deporting ~~mental~~ psychiatric patients.

17 §104. Importation of ~~mental~~ nonresident psychiatric patients prohibited

18 A. No person or public carrier shall knowingly import a ~~non-resident~~
 19 nonresident ~~mental~~ psychiatric patient into this state for the purpose of having him
 20 committed.

21 B. Any person who violates the provisions of this Section shall be fined one
 22 hundred dollars or imprisoned for sixty days, or both, and the patient shall be
 23 removed from the state at the expense of the offending person or public carrier.

24 §105. Extradition of escaped patients

25 ~~The extradition of escaped patients shall be in accordance with the Uniform~~
 26 ~~Act for the Extradition of Persons of Unsound Mind.~~

27 A. For purposes of this Section, the following definitions relative to
 28 extradition of escaped patients apply:

1 (1) "Executive authority" means the governor of a state or other executive
 2 of a territory, district, or insular or other possession of the United States, or his
 3 appointed designee.

4 (2) "Flight" and "fled" shall mean any departure from the jurisdiction of the
 5 court where the proceedings provided for in this Section may have been instituted
 6 and are still pending, with the effect of avoiding, impeding, or delaying the action
 7 of the court in which such proceedings may have been instituted or be pending.

8 (3) "State" shall include any state, territory, district, and insular and other
 9 possession of the United States.

10 B.(1) Whenever the executive authority of any state other than Louisiana
 11 demands the return of an escaped nonresident patient and produces a certified copy
 12 of the decree or other judicial process and proceedings for involuntary commitment
 13 with an affidavit showing the person to be an escapee, it shall be the duty of the
 14 executive authority of Louisiana to apprehend and secure the escapee.

15 (2) The executive authority of Louisiana shall give immediate notice of the
 16 apprehension of the escapee to the executive authority making such demand, or to
 17 the agent of the authority appointed to receive the escapee, and shall cause the
 18 escapee to be delivered to such agent. If no agent appears within forty days from the
 19 time of apprehension, the escapee may be discharged.

20 C. All costs and expenses incurred in apprehending, securing, maintaining,
 21 and transmitting the escapee shall be paid by the state making the demand for the
 22 return of the escapee. Any agent so appointed who receives the escapee into his
 23 custody shall be empowered to transmit him to the state from which he has fled.

PART V. FEES AND COSTS

§141. Costs of commitment and examination

26 A. If financially able, the patient or his ~~legally responsible relative~~ legal
 27 guardian shall pay the costs of commitment, including examination fees, expenses
 28 incurred in calling witnesses, fees of counsel for the patient, and fees of the
 29 commission, otherwise the parish of domicile in the case of a resident or the ~~division~~
 30 department in the case of a non-resident shall pay these costs.

1 B. Fees for services rendered by coroners or other experts in the commitment
 2 of patients shall be in accordance with the provisions contained in Article ~~267~~ 659
 3 of the Code of Criminal Procedure and the special laws relating to the fees of
 4 coroners and assisting physicians in interdiction proceedings. Except for emergency
 5 commitments which do not result in court commitment and voluntary admissions,
 6 the coroner of the parish of domicile shall receive the usual fee allowed in a formal
 7 commitment; for all types of commitment under this Chapter, even though he does
 8 not act personally in the commitment proceeding.

9 §142. Costs of transportation

10 A. If financially able, the patient or his ~~legally responsible relative~~ legal
 11 guardian shall pay all ~~the~~ costs incident to transporting the patient to the ~~mental state~~ state
 12 psychiatric hospital; otherwise the department, in the case of a nonresident, or the
 13 parish in which the hearing was held, in the case of a resident, shall pay these costs.
 14 If a patient's domicile is in a parish other than that in which the hearing was held, the
 15 former parish shall reimburse the latter for these costs.

16 B. Fees for transporting patients shall be in accordance with the special laws
 17 establishing fees for transporting prisoners.

18 §143. Costs of maintenance and ~~boarding-out~~ daily care

19 A. The ~~superintendent~~ director or administrator of each ~~mental institution~~
 20 state psychiatric hospital shall include the costs of maintenance and ~~boarding-out~~
 21 daily care of patients as an expense of the ~~institution~~ state psychiatric hospital and
 22 shall prepare budgets in accordance with the provisions of Chapter 1 of Title 39 of
 23 the Louisiana Revised Statutes of 1950.

24 B. If financially able, the patient or his ~~legally responsible relative~~ legal
 25 guardian shall reimburse the ~~institution~~ state psychiatric hospital for all or a part of
 26 the cost of his maintenance or ~~boarding-out~~ daily care.

27 §144. Investigation and assessment of charges

28 The department shall develop procedures to determine the ability of a patient
 29 or his ~~legally responsible relative~~ legal guardian to pay all or a part of the costs of the

1 patient's care and shall adopt a policy including rules and regulations for the
2 assessment of charges in accordance with the ability to pay.

3 §145. Costs of transfer

4 The person requesting the transfer shall pay the costs of transferring a patient
5 between ~~institutions~~ hospitals. The department shall pay the costs of transfers made
6 at its request.

7 §146. Expenses incident to discharge, removal, or funeral

8 A. If financially able, the patient or his ~~legally responsible relative~~ legal
9 guardian shall pay the costs of the patient's funeral or his discharge and removal,
10 including traveling expenses to his home; otherwise the ~~institution~~ state psychiatric
11 hospital shall pay these costs. If discharge is ordered by the department and the
12 ~~institution has to pay~~ state psychiatric hospital pays the patient's traveling expenses
13 to his home, the department shall reimburse the ~~institution~~ state psychiatric hospital
14 out of appropriations for persons who are indigent and have a mental illness.

15 * * *

16 §147. Method of collection

17 The department may demand and receive any sums assessed as costs against
18 a patient or his ~~legally responsible relative~~ legal guardian, and in the case of
19 nonpayment, may sue to enforce collection.

20 * * *

21 PART VI. RIGHTS OF PERSONS SUFFERING FROM MENTAL ILLNESS AND
22 ~~SUBSTANCE ABUSE~~ SUBSTANCE-RELATED OR ADDICTIVE DISORDERS

23 §171. Enumerations of rights guaranteed

24 * * *

25 C.

26 * * *

27 (4)(a) The director of any substance ~~abuse~~ use treatment facility may restrict
28 the visitation rights of a patient who is voluntarily admitted to such treatment facility
29 under the provisions of R.S. 28:52, 52.1, 52.2, 52.3, and 52.4 for the initial phase of
30 treatment but no longer than seven days unless good cause exists to extend the

1 restriction and is so documented in the patient's record. This restriction shall not
 2 apply to visitation by the patient's attorney, or if he is not represented by counsel, the
 3 mental health advocate, or the patient's minister. This restriction shall also not apply
 4 to a parent or legal guardian of a patient who is a minor unless the director
 5 determines that good cause exists that such restriction shall be in the best interest of
 6 the patient and is so documented in the patient's record. When the facility director
 7 determines the need to restrict visitation of new patients he shall post notice of such
 8 restriction in places prominent to all new admissions, and shall inform each new
 9 patient of the restriction prior to the admission of the patient, and the length and
 10 duration thereof, and further, that such restriction may be extended on an individual
 11 basis as determined to be in the patient's interest by the treatment staff with the
 12 concurrence of the medical director.

* * *

14 D. Seclusion or restraint shall only be used to prevent a patient from
 15 physically injuring himself or others. Seclusion or restraint may not be used to
 16 punish or discipline a patient or used as a convenience to the staff of the treatment
 17 facility. Seclusion or restraint shall be used only in accordance with the following
 18 standards:

* * *

20 (5) A renewal order for up to twelve hours of seclusion or restraint may be
 21 issued by a physician, psychologist, medical psychologist, or psychiatric mental
 22 health nurse practitioner with institutional authority to order seclusion or restraint
 23 after determining that there is no less restrictive means of preventing injury to the
 24 patient or others. If any patient is held in seclusion or restraint for twenty-four
 25 consecutive hours, the physician, psychologist, medical psychologist, or psychiatric
 26 mental health nurse practitioner with institutional authority shall conduct an actual
 27 examination of the patient and document the reason why the use of seclusion or
 28 restraint beyond twenty-four consecutive hours is necessary, and the next of kin or
 29 responsible party shall be notified by the twenty-sixth hour.

* * *

1 §171.1. Principles for the ~~mental~~ behavioral health system

2 The department and any entity which receives funding through a state
3 contract to provide services to persons ~~who are mentally ill~~ with needs relating to
4 behavioral health, as defined in R.S. 28:2, shall provide, to the maximum extent
5 possible, ~~mental~~ behavioral health treatment, services, and supports which are
6 consistent with the following principles:

7 * * *

8 (5) Persons with ~~mental illness~~ behavioral health needs are generally best
9 able to determine their own needs, rather than their needs being determined by
10 others.

11 (6) For children with ~~mental illness~~ behavioral health needs, the needs of the
12 entire family should be considered in the development of family supports.

13 (7) Family supports may enable children to live in stable family
14 environments with enduring relationships with one or more adults regardless of the
15 severity of the ~~mental illness~~ behavioral health needs of the child or the degree of
16 support necessary.

17 (8) Children and young adults with ~~mental illness~~ behavioral health needs
18 receive and participate in an appropriate education which enables them to have
19 increased opportunities for well being, development, and inclusion in their
20 communities.

21 * * *

22 §172. Deposit of patients' funds; disbursement

23 A. The ~~superintendent~~ administrator of each state psychiatric hospital ~~for~~
24 ~~persons with mental illness~~ is authorized to receive and receipt for funds belonging
25 to a patient and shall keep such funds on deposit for the use and benefit of the
26 patient. Such funds shall be considered as being on deposit with an agency of the
27 state of Louisiana and no bond shall be required of the ~~superintendent~~ department.
28 Disbursement thereof shall be made only on order of the court having jurisdiction
29 over the patient if he has been judicially interdicted or if not, an order of the person
30 or governmental agency making the deposit in behalf of the patient.

1 §185. Unlicensed counseling

2 A. No person shall hold himself out to be a counselor with a specific
3 specialty to provide mental health or ~~substance abuse~~ substance-related or addictive
4 disorder treatment services, or attempt to provide counseling services in this state,
5 and receive fees either from the patient or a third party, unless he is authorized to
6 practice in the specific specialty area by the appropriate state or regulatory authority.

7 * * *

8 §200. Promotion of a community-based system of care

9 It is hereby declared to be a function of the Louisiana Department of Health
10 to promote the establishment and administration of a community-based system of
11 care, including but not limited to community behavioral health ~~centers~~ clinics for
12 persons ~~with~~ who have a mental illness, persons with developmental disabilities, or
13 persons with both conditions as contemplated by the provisions of R.S. 40:2013.
14 ~~Behavioral health centers as used herein shall include guidance centers.~~

15 §201. Transfer of administration

16 The department may continue to administer any such existing ~~centers~~ clinics,
17 but its primary endeavor shall be to transfer responsibility for the administration of
18 existing facilities or facilities that may hereafter be created to local associations,
19 nonprofit corporations, police juries, school boards, municipalities, or other public
20 agencies that have demonstrated a desire to establish, maintain, and operate facilities
21 for persons ~~with~~ who have a mental illness, developmental disabilities, or both
22 conditions on a municipal, parish, or other local area basis.

23 §202. Lease of land, buildings, and equipment

24 The department may lease to responsible local organizations or to the
25 governing bodies of local public agencies any ~~state-owned~~ state-owned land,
26 buildings, and equipment designed for or being operated as a behavioral health
27 ~~center~~ clinic.

28 * * *

1 §215.2. Coroner's Strategic Initiative for a Health Information and Intervention
2 Program; powers and duties

3 Subject to the availability of adequate funding, a CSI/HIP may perform any
4 of the following functions:

5 (1) Provide a home-based support system, which shall not provide any
6 ~~mental~~ behavioral health treatment but rather shall provide aid to the individual to
7 ensure that the treatment protocol is being met and to access available ~~mental~~
8 behavioral health resources in the community for persons who satisfy all of the
9 following criteria:

10 * * *

11 (2) Establish a community resource center that is accessible by telephone or
12 Internet to provide twenty-four hour support for persons suffering from a mental
13 ~~health or substance abuse condition or~~ illness or substance-related or addictive
14 disorder by providing educational and outreach materials about the resources for
15 ~~mental~~ behavioral health patients which are available in the community, including
16 the location, transportation, and methods for accessing these resources.

17 * * *

18 §215.3. Treatment facilities; dissemination of information

19 A. ~~For~~ Notwithstanding R.S. 28.2, for the purposes of this Section,
20 "treatment facility" shall mean any healthcare facility which provides services or
21 treatment to a person who is suffering from a mental ~~health or substance abuse~~
22 ~~condition or~~ illness or substance-related or addictive disorder except for a nursing
23 home as defined in R.S. 40:2009.2.

24 B. A treatment facility shall provide to all individuals in the parish suffering
25 from a mental ~~health condition~~ illness or substance-related or addictive disorder upon
26 discharge or release an information and consent form which details the information,
27 programs, and services which can be provided by the CSI/HIP to individuals
28 suffering from mental ~~health conditions~~ illness and substance-related or addictive
29 disorders and includes a voluntary consent form for the individual to complete if the
30 individual desires to have the treatment facility notify the CSI/HIP on behalf of the

1 individual that the individual would like to be contacted by the CSI/HIP to receive
2 additional information about the program.

3 * * *

4 §215.4. Consent

5 A. Prior to personnel of the coroner's office or CSI/HIP providing any home-
6 based supports or services to an individual, the personnel of the coroner's office or
7 of the CSI/HIP shall provide to the individual in writing a full disclosure of all
8 services to be provided, frequency of home visits, and notice that the individual may
9 withdraw his consent in writing at any time. In addition, the individual shall also
10 consent in writing to the list of persons, if any, with whom the personnel of the
11 coroner or the CSI/HIP may discuss his ~~mental~~ behavioral health condition.

12 * * *

13 PART X. ADVANCE DIRECTIVES FOR ~~MENTAL~~
14 BEHAVIORAL HEALTH TREATMENT

15 §221. Definitions

16 As used in this Part:

17 (1) "Advance directive for ~~mental~~ behavioral health treatment" or "advance
18 directive" means a written document voluntarily executed by a principal in
19 accordance with the requirements of this Part and includes a declaration or the
20 appointment of a representative or both.

21 (2) "Declaration for ~~mental~~ behavioral health treatment" or "declaration"
22 means a written document executed by a principal, in accordance with the
23 requirements of this Part, setting forth preferences or instructions regarding ~~mental~~
24 behavioral health treatment in the event the principal is determined to be incapable
25 and ~~mental~~ behavioral health treatment is necessary.

26 (3) "Director" or "~~superintendent~~" administrator means a person in charge
27 of a treatment facility or his deputy.

28 (4) "Incapable" means that, due to any infirmity, the principal is currently
29 unable to make or to communicate reasoned decisions regarding the principal's
30 ~~mental~~ behavioral health treatment.

1 (5) "~~Mental Behavioral~~ health treatment" shall have the same meaning as
 2 provided in R.S. 28:2(28) and includes but is not limited to electroshock therapy,
 3 means treatment of mental illness with ~~psychoactive~~ psychotropic medication,
 4 admission to and retention in a treatment facility, ~~and~~ or outpatient services.
 5 However, "~~mental behavioral~~ health treatment" shall not include admission to or
 6 retention in a ~~mental health~~ treatment facility for a period in excess of fifteen days.

7 (6) "Outpatient services" means treatment for a mental ~~or emotional~~ illness
 8 or a substance-related or addictive disorder that is obtained on an outpatient basis.

9 * * *

10 (8) "Principal" means an individual who has executed an advance directive
 11 for ~~mental behavioral~~ health treatment.

12 (9) "Provider" means a ~~mental behavioral~~ health treatment provider.

13 * * *

14 (11) "Representative" means a competent adult validly appointed under R.S.
 15 28:223 to make ~~mental behavioral~~ health treatment decisions for a principal and also
 16 means an alternative representative.

17 (12) "Treating physician" means the physician who has primary
 18 responsibility for the ~~mental behavioral~~ health treatment of the principal.

19 (13) "Treatment facility" shall have the same meaning as provided in ~~R.S.~~
 20 ~~28:2(29)(a)~~ R.S. 28.2.

21 §222. Individuals who may make an advance directive for ~~mental behavioral~~ health
 22 treatment; period of validity

23 A. An adult who is not incapable may make an advance directive for ~~mental~~
 24 behavioral health treatment. The preferences or instructions may include consent to
 25 or refusal of ~~mental behavioral~~ health treatment.

26 B. An advance directive for ~~mental behavioral~~ health treatment shall
 27 continue in effect for a period of five years or until revoked, whichever occurs first.
 28 The authority of a named representative and any alternative representative named in
 29 the advance directive for ~~mental behavioral~~ health treatment shall continue in effect

1 as long as the advance directive appointing the representative is in effect or until the
 2 representative has withdrawn.

3 C. If an advance directive for ~~mental~~ behavioral health treatment has been
 4 delivered to the principal's treating physician or other provider and the principal has
 5 been determined to be incapable pursuant to R.S. 28:226, at the expiration of five
 6 years after its execution, it shall remain effective until the principal is no longer
 7 incapable.

8 §223. Designation of representative for decisions about ~~mental~~ behavioral health
 9 treatment

10 An advance directive for ~~mental~~ behavioral health treatment may designate
 11 a competent adult to act as a representative to make decisions about ~~mental~~
 12 behavioral health treatment. An alternative representative may also be designated
 13 to act as representative if the original designee is unable or unwilling to act at any
 14 time. A representative who has accepted the appointment in writing may make
 15 decisions about ~~mental~~ behavioral health treatment on behalf of the principal only
 16 when the principal is determined to be incapable pursuant to R.S. 28:226. The
 17 decisions shall be consistent with any desires the principal has expressed in the
 18 declaration.

19 §224. Execution of advance directive; witnesses; ~~mental-status~~ psychiatric
 20 examination

21 A. An advance directive for ~~mental~~ behavioral health treatment shall be valid
 22 only if it is signed by the principal and two competent witnesses and accompanied
 23 by a written ~~mental-status~~ psychiatric examination performed by a physician or
 24 psychologist attesting to the principal's ability to make reasoned decisions
 25 concerning his ~~mental~~ behavioral health treatment. The witnesses shall attest that the
 26 principal is known to them, signed the advance directive in their presence, and does
 27 not appear to be unable to make reasoned decisions concerning his ~~mental~~ behavioral
 28 health treatment or under duress, fraud, or undue influence. Individuals specified in
 29 R.S. 28:234 may not act as witnesses.

1 B. In determining the principal's ability, the physician or psychologist should
2 consider all of the following:

3 (1) ~~whether~~ Whether the principal demonstrates an awareness of the nature
4 of his illness and situation;

5 (2) ~~whether~~ Whether the principal demonstrates an understanding of
6 treatment and the risks, benefits, and alternatives; ~~and~~.

7 (3) ~~whether~~ Whether the principal communicates a clear choice regarding
8 treatment that is a reasoned one, even though it may not be in the person's best
9 interest.

10 §225. Operation of advance directive; physician or provider to act in accordance
11 with advance directive

12 A. An advance directive shall become operative when it is delivered to the
13 principal's treating physician or other ~~mental~~ behavioral health treatment provider
14 and shall remain valid until revoked or expired.

15 B. The treating physician or provider shall act in accordance with an
16 operative advance directive when the principal has been found to be incapable
17 pursuant to R.S. 28:226. Notwithstanding the operative advance directive, the
18 treating physician or provider shall endeavor to communicate with the principal
19 regarding his proposed ~~mental~~ behavioral health treatment and even continue to
20 obtain the principal's informed consent to all ~~mental~~ behavioral health treatment
21 decisions if the principal is capable of providing informed consent or refusal.

22 * * *

23 §227. Scope of authority of representative; powers and duties; limitation on liability

24 A. The representative shall not have the authority to make ~~mental~~ behavioral
25 health treatment decisions unless the principal is determined to be incapable as
26 provided in R.S. 28:226.

27 * * *

28 C. Except to the extent the right is limited by the advance directive or any
29 state or federal law, a representative shall have the same right as the principal to
30 receive information regarding both proposed and administered ~~mental~~ behavioral

1 health treatment and to receive, review, and consent to disclosure or use of medical
 2 records relating to that treatment. This representative's right of access to the
 3 principal's ~~mental~~ behavioral health treatment information shall not waive any
 4 evidentiary privilege.

5 * * *

6 E. A representative shall not be subject to criminal prosecution, civil
 7 liability, or professional disciplinary action for any action taken in good faith
 8 pursuant to an advance directive for ~~mental~~ behavioral health treatment.

9 §228. Prohibitions against requiring an individual to execute or refrain from
 10 executing an advance directive

11 An individual shall not be required to execute or to refrain from executing an
 12 advance directive for ~~mental~~ behavioral health treatment as a criterion for insurance,
 13 as a condition for receiving ~~mental~~ behavioral or physical health services, or as a
 14 condition of discharge from a treatment facility.

15 §229. Advance directive for ~~mental~~ behavioral health treatment; part of medical
 16 record; physician or provider compliance; withdrawal of physician or
 17 provider

18 A. Upon being presented with an advance directive for ~~mental~~ behavioral
 19 health treatment, a physician or other provider shall make the advance directive a
 20 part of the principal's medical record. When acting under authority of an advance
 21 directive, a physician or provider shall comply with it to the fullest extent possible,
 22 consistent with the appropriate standard of care, reasonable medical practice, the
 23 availability of treatments requested, and applicable law. If the physician or other
 24 provider is unable or unwilling at any time to carry out preferences or instructions
 25 contained in an advance directive for ~~mental~~ behavioral health treatment or the
 26 decisions of the representative, the physician or provider may withdraw from
 27 providing treatment to the principal.

28 * * *

1 C. For the purposes of this Section, "physician" means the treating physician
2 or any other physician proposing or administering ~~mental~~ behavioral health treatment
3 to the principal.

4 §230. Disregarding advance directives; circumstances

5 A. The physician or provider may subject a principal determined to be
6 incapable pursuant to R.S. 28:226 to ~~mental~~ behavioral health treatment in a manner
7 contrary to the principal's wishes as expressed in an advance directive for ~~mental~~
8 behavioral health treatment only:

9 * * *

10 (2) When the treating physician determines that psychotropic medication is
11 essential and after compliance with the following procedures:

12 (a) When a principal's advance directive for behavioral health treatment or
13 his representative refuses medication that the treating physician believes is essential,
14 the director or administrator of the treatment facility shall conduct an administrative
15 review to determine whether the principal should be forcibly medicated contrary to
16 his wishes.

17 * * *

18 (d) A principal may be medicated contrary to the wishes expressed in his
19 advance directive if, based on a review of the advance directive and the reasons
20 stated therein, the patient's medical chart, a personal examination of the patient, the
21 wishes of the principal's representative, if any, and the recommendations of the
22 treating physician, the director determines that the medication is medically essential.
23 The director shall consider the following criteria in making that decision:

24 (i) The patient ~~is mentally ill~~ has a mental illness and is dangerous to himself
25 or others or gravely disabled without the medication.

26 * * *

27 B. An advance directive shall not limit the authority provided in ~~R.S. 28:2~~
28 ~~et seq.~~, this Chapter to take a principal into protective custody or to involuntarily
29 admit or commit a principal to a treatment facility.

1 C. An advance directive shall not authorize admission to or retention in a
2 ~~mental health~~ treatment facility for a period in excess of fifteen days.

3 * * *

4 §232. Limitations on liability of physician or provider

5 A physician or provider who administers or does not administer ~~mental~~
6 behavioral health treatment according to and in good faith reliance upon the validity
7 of an advance directive for ~~mental~~ behavioral health treatment shall not be subject
8 to criminal prosecution, civil liability, or professional disciplinary action resulting
9 from a subsequent finding of an advance directive's invalidity.

10 §233. Individuals prohibited from serving as representative

11 The following individuals shall be prohibited from serving as a
12 representative:

13 * * *

14 (2) An owner, operator, or employee of a ~~health-care~~ treatment facility in
15 which the principal is a patient, client, or resident if the owner, operator, or employee
16 is unrelated to the principal by blood, marriage, or adoption.

17 §234. Individuals prohibited from serving as witnesses to advance directive for
18 ~~mental~~ behavioral health treatment

19 The following individuals shall be prohibited from serving as a witness to the
20 signing of an advance directive for ~~mental~~ behavioral health treatment:

21 * * *

22 (2) An owner, operator, or relative of an owner or operator of a ~~mental~~
23 behavioral health treatment facility in which the principal is a patient or resident.

24 * * *

25 CHAPTER 5. GROUP HOME FOR PERSONS

26 ~~WITH~~ WHO HAVE MENTAL ILLNESS OR

27 DEVELOPMENTAL DISABILITIES ACT

28 §475. Short title

29 This Chapter shall be known and may be cited as the "Group Home for
30 Persons with who have Mental Illness or Developmental Disabilities Act".

1 §476. Declaration of policy

2 The legislature hereby declares that it is the policy of this state as declared
 3 and established in this Title, particularly in the Developmental Disability Law and
 4 the ~~Mental~~ Behavioral Health Law, that persons with mental or physical disabilities
 5 are entitled to live in the least restrictive environment in their own community and
 6 in normal residential surroundings and should not be excluded therefrom because of
 7 their disabilities. The legislature further declares that the provisions of this Chapter
 8 are intended to secure to all of the citizens of this state the right to individual dignity
 9 as provided in Article I, Section 3 of the Constitution of Louisiana and to protect the
 10 rights and promote the happiness and general welfare of the people of this state. To
 11 that end, the legislature hereby declares that the provisions of this Chapter are an
 12 exercise of the police power reserved to the state by Article I, Section 4 and Article
 13 VI, Section 9(B) of the Constitution of Louisiana.

14 §477. Definitions

15 As used in this Chapter, unless otherwise clearly indicated, these words and
 16 phrases have the following meanings:

17 (1) "Community home" means a facility certified, licensed, or monitored by
 18 the Louisiana Department of Health to provide resident services and supervision to
 19 six or fewer persons ~~with~~ who have mental illness or developmental disabilities.
 20 Such facility shall provide supervisory personnel in order to function as a single
 21 family unit but not to exceed two live-in persons.

22 * * *

23 (3)(a) "Person ~~with~~ who has a mental illness or a developmental disability"
 24 means any person who has a physical or mental impairment which substantially
 25 limits one or more of the following major life activities:

26 * * *

27 (b) This definition shall not include persons with ~~substance-use~~ substance-
 28 related or addictive disorders, nor shall it apply to persons ~~with~~ who have mental
 29 illness or developmental disabilities and are currently under sentence or on parole

1 from any criminal violation or who have been found not guilty of a criminal charge
2 by reason of insanity.

3 §478. Promotion of community based homes

4 A. In order to achieve uniform statewide implementation of the policies of
5 this Title and of those of the Developmental Disabilities Law and of the ~~Mental~~
6 Behavioral Health Law, it is necessary to establish the statewide policy that
7 community homes are permitted by right in all residential districts zoned for
8 multiple-family dwellings.

9 * * *

10 CHAPTER 11. SUBSTANCE-RELATED AND ADDICTIVE DISORDERS

11 §771. Office of behavioral health; functions ~~related to~~ regarding substance-related
12 and addictive disorders

13 A. The office of behavioral health of the Louisiana Department of Health,
14 hereinafter referred to as the "office", shall perform the functions of the state relating
15 to the care, training, treatment, and education of persons suffering from substance-
16 related and addictive disorders and the prevention of ~~addictive~~ those disorders. It
17 shall administer residential and outpatient care facilities of the state for substance-
18 related and addictive disorder patients and administer the substance-related and
19 addictive disorders programs in the state.

20 B. The office shall additionally ~~perform~~ have the following duties and
21 responsibilities:

22 (1) Formulation and implementation of policies relating to the treatment and
23 prevention of substance-related and addictive disorders in accordance with
24 applicable state law; however, the provisions of this Section shall not apply to the
25 Substance Abuse Prevention Program of the Department of Education and the
26 Highway Safety Act of 1966 (P.L. 89-564) administered by the Highway Safety
27 Commission of the Department of Public Safety and Corrections.

28 (2) Provision of all services to persons suffering from substance-related and
29 addictive disorders which were formerly provided by the office of prevention and
30 recovery from alcohol and drug abuse of the Louisiana Department of Health and

1 such services otherwise required by law. The office may provide such services
 2 directly or through contracts with local, state, or federal agencies or private care
 3 providers.

4 (3) Administration of all programs relating to substance-related and
 5 addictive disorders listed in this Title.

6 (4) Coordination of all programs of all state departments relating to
 7 substance-related and addictive disorders, including assisting such agencies in the
 8 assessment and referral of persons subject to their jurisdiction. The office shall also
 9 establish and implement an employee assistance program on substance-related and
 10 addictive disorders for state employees.

11 (5)(a) Provision of assessment, referral, and treatment services for substance-
 12 related and addictive disorders to persons subject to the custody of state, municipal,
 13 or parish correctional institutions pursuant to agreements with such institutions and
 14 to persons subject to driving while intoxicated programs. In addition to any charges
 15 established by the department for treatment services by the office provided to
 16 persons subject to driving while intoxicated programs, the department may assess
 17 every patient in such program to whom the office provides treatment services a
 18 standard copayment fee of ten dollars per session subject to applicable federal
 19 regulations. A patient whose treatment is provided by the office through a private
 20 contractor shall not be assessed a copayment fee as provided above. Nothing in this
 21 Paragraph shall be construed to prohibit such a private provider from assessing fees
 22 otherwise allowable under applicable federal and state laws. ~~The department shall~~
 23 ~~provide by rule for the implementation of such copayment not later than March 15,~~
 24 ~~1987.~~

25 ~~(b) Notwithstanding the provisions of Subparagraph (a) and otherwise~~
 26 ~~subject to its provisions, not later than September 1, 1987, the department, by rule,~~
 27 ~~shall increase the amount of the standard copayment fee to twenty dollars per~~
 28 ~~session.~~

29 ~~(c)~~ (b) The copayment provided for in this Paragraph shall be deposited in
 30 the state treasury pursuant to R.S. 39:82 and shall be accounted for by the

1 commissioner of administration through appropriations control pursuant to R.S.
 2 39:334(B)(6). The commissioner of administration shall establish a separate cost
 3 center in the office of behavioral health and the office for citizens with
 4 developmental disabilities for revenue generated pursuant to this Paragraph. All
 5 funds not obligated shall revert to the state general fund at the end of the fiscal year.

6 (6) Maintenance of complete statistics and other relevant information on
 7 substance-related and addictive disorders within the state of Louisiana and provision
 8 of such information to interested agencies, groups, and individuals upon request.

9 (7) Receive any federal funds available under ~~Title 18, Title 19, and Title 20~~
 10 Title XVIII, Title XIX, and Title XX of the Social Security Act and any other funds
 11 specifically allocated for the prevention or treatment of substance-related and
 12 addictive disorders and to use any such funds received.

13 (8) Development of procedures and criteria for determining, and, in
 14 accordance with such procedures and criteria, determination of the ability of a patient
 15 or person receiving services, or his ~~legally responsible relative~~ legal guardian, to pay
 16 all or a part of the costs of the care or treatment of the patient or recipient. The
 17 department shall promulgate rules and regulations to provide for such determination
 18 and for the assessment of charges for care or treatment based on such determination.

19 (9) Provide a twenty-four-hour, toll-free telephone service to provide
 20 information regarding available services to assist with ~~compulsive or problem~~
 21 gambling ~~behavior~~ disorders.

22 (10) Require any patient who is given a urine drug screen in a state-operated
 23 outpatient or inpatient ~~alcohol or drug abuse~~ facility as part of his treatment by the
 24 office of behavioral health to pay a copayment of not more than twelve dollars per
 25 screen to the provider of the screen if he is able to pay such copayment based on a
 26 sliding fee scale. Such copayments shall be charged and collected by the provider.
 27 The ~~office of behavioral health~~ department shall promulgate rules and regulations to
 28 establish a sliding fee scale and criteria for determining a patient's ability to pay.
 29 Any patient eligible to receive Medicaid shall be exempt from the provisions of the
 30 copayment requirements. The copayments shall be exempt from the provisions of

1 R.S. 49:971(A)(3) which provide that no state agency shall increase any existing fee
 2 or impose any new fee unless the fee increase or fee adoption is expressly authorized
 3 pursuant to a fee schedule established by statute or specifically authorized by federal
 4 law, rules, or regulations for the purpose of satisfying an express mandate of such
 5 federal law, rule, or regulation.

6 C. The services and programs as described in Subsections A and B of this
 7 Section shall be the responsibility of and shall be performed by the Jefferson Parish
 8 Human Services Authority for Jefferson Parish only. The department shall not be
 9 responsible for and shall not perform these services and programs in Jefferson
 10 Parish.

11 D. The services and programs as described in Subsections A and B of this
 12 Section, excluding the operation and management of any ~~in-patient~~ inpatient facility
 13 under the jurisdiction of the department, shall be the responsibility of and shall be
 14 performed by the Capital Area Human Services District for the parishes of
 15 Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, West Baton
 16 Rouge, and West Feliciana only. The department shall not be responsible for and
 17 shall not perform these services and programs in ~~said~~ such parishes provided that if
 18 funds are not appropriated by the legislature for the district to provide these services
 19 and programs in ~~said~~ those parishes, the department shall continue to be responsible
 20 for and shall perform these services and programs in ~~said~~ those parishes.

21 E. The services and programs as described in Subsections A and B of this
 22 Section, excluding the operation and management of any inpatient facility for
 23 developmental disabilities and mental health under the jurisdiction of the department,
 24 shall be the responsibility of and shall be performed by the Florida Parishes Human
 25 Services Authority for the parishes of Livingston, St. Helena, St. Tammany,
 26 Tangipahoa, and Washington only. The department shall not be responsible for and
 27 shall not perform these services and programs in ~~said~~ such parishes provided that if
 28 funds are not appropriated by the legislature for the authority to provide these
 29 services and programs in ~~said~~ those parishes, the department shall continue to be
 30 responsible for and shall perform these services and programs in ~~said~~ those parishes.

1 F. The services and programs as described in Subsections A and B of this
2 Section, excluding the operation and management of any inpatient facility under the
3 jurisdiction of the department, shall be the responsibility of and shall be performed
4 by the Metropolitan Human Services District for the parishes of Orleans, St. Bernard,
5 and Plaquemines only. The department shall not be responsible for and shall not
6 perform these services and programs in ~~said~~ such parishes provided that if funds are
7 not appropriated by the legislature for the district to provide these services and
8 programs in ~~said~~ those parishes, the department shall continue to be responsible for
9 and shall perform these services and programs in ~~said~~ those parishes.

10 G. The services and programs as described in Subsections A and B of this
11 Section, excluding the operation and management of any inpatient facility under the
12 jurisdiction of the department, shall be the responsibility of and shall be performed
13 by the South Central Louisiana Human Services District for the parishes of
14 Assumption, Lafourche, St. Charles, St. James, St. John the Baptist, St. Mary, and
15 Terrebonne only. The department shall not be responsible for and shall not perform
16 these services and programs in ~~said~~ such parishes provided that if funds are not
17 appropriated by the legislature for the district to provide these services and programs
18 in ~~said~~ those parishes, the department shall continue to be responsible for and shall
19 perform these services and programs in ~~said~~ those parishes.

20 H. The services and programs as described in Subsections A and B of this
21 Section, excluding the operation and management of any inpatient facility under the
22 jurisdiction of the department, shall be the responsibility of and shall be performed
23 by the Northeast Delta Human Services Authority for the parishes of Caldwell, East
24 Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland,
25 Tensas, Union, and West Carroll only. The department shall not be responsible for
26 and shall not perform these services and programs in ~~said~~ such parishes provided that
27 if funds are not appropriated by the legislature for the district to provide these
28 services and programs in ~~said~~ those parishes, the department shall continue to be
29 responsible for and shall perform these services and programs in ~~said~~ those parishes.

1 §772. Funding of regional addictive disorder services

2 A.(1) Funding for regional substance-related and addictive disorder services
3 as defined in Subsection B of this Section shall be allocated to each region according
4 to a formula developed by the assistant secretary of the office of behavioral health,
5 promulgated in accordance with the Administrative Procedure Act, and evaluated
6 each year to determine necessary changes.

7 (2) The formula developed by the office shall weigh certain elements in
8 determining the formula. The elements and their assigned weights are as follows:

9 * * *

10 (c) The estimated number of adults in a region needing treatment for
11 substance-related and addictive disorders shall be assigned a weight of twenty
12 percent.

13 * * *

14 B. "Regional substance-related and addictive disorder services" shall include
15 all treatment and ~~prevention/education~~ prevention or education services provided in
16 each region.

17 * * *

18 CHAPTER 15. ~~COMPULSIVE AND PROBLEM GAMBLING~~ DISORDERS

19 §841. Office of behavioral health; functions related to ~~compulsive and problem~~
20 gambling disorders

21 A. The office of behavioral health of the Louisiana Department of Health
22 shall establish a program to provide information and referral services related to
23 ~~compulsive or problem~~ gambling disorders. The program may include treatment
24 services and shall include provision of a twenty-four hour, toll-free telephone
25 service, operated by persons with knowledge of programs and services available to
26 assist persons suffering from ~~compulsive or problem gambling behavior~~ gambling
27 disorders.

28 * * *

29 §911. Definitions

30 As used in this Chapter and unless the context clearly requires otherwise:

1 (1) "Behavioral health services" means community-based mental health and
2 substance-related and addictive disorders services.

3 * * *

4 §913. Governing board; membership; appointment; terms; compensation

5 A.

6 * * *

7 (2) The parish appointees shall be persons with professional experience or
8 parents, consumers, or advocates in the fields of substance-related and addictive
9 disorders, developmental disabilities, mental health, or public health.

10 (3)(a) The governor's three appointees shall be one member with experience
11 in the financial operation of a business enterprise, one member who is a parent,
12 consumer, or caregiver of a consumer of services, and one member who represents
13 one of the following fields: substance-related and addictive disorders,
14 developmental disabilities, mental health, or public health.

15 (b) The governing authority of each parish may submit three names to the
16 governor for consideration as one of the governor's three appointees.

17 * * *

18 §915. Districts; functions, powers, and duties

19 A. Pursuant to a contract with the department, all human services districts
20 shall:

21 * * *

22 (3) Perform community-based functions for the care, diagnosis, training,
23 treatment, and education related to substance-related and addictive disorders,
24 including but not limited to alcohol, drug abuse, or gambling.

25 * * *

26 §931. Definitions; purposes

27 * * *

28 B. The purposes of an intervention and stabilization unit include, without
29 limitation, all of the following:

30 * * *

1 (2) To diminish the need in a community for recurrent crisis services for
2 persons suffering from mental illness, ~~substance abuse~~ a substance-related or
3 addictive disorder, or both conditions.

4 * * *

5 Section 3. R.S. 36:258(C) and 259(C)(10) and (16) are hereby amended and
6 reenacted to read as follows:

7 §258. Offices; purposes and functions

8 * * *

9 C. The consolidation of the administration of the offices for mental ~~illness~~
10 health and of addictive disorders into the office of behavioral health will offer less
11 redundancy and greater benefits to Louisiana citizens in need of these services. The
12 office of behavioral health shall perform the functions of the state which ~~provide~~
13 oversee services and continuity of care for the prevention, detection, treatment,
14 rehabilitation, and follow-up care of mental and emotional illness in Louisiana and
15 shall perform functions related to mental health. It shall also perform the functions
16 of the state relating to the care, training, treatment, and education of those suffering
17 from substance-related or addictive disorders and the prevention of substance-related
18 and addictive disorders and administer the substance-related and addictive disorders
19 programs in the state. It shall ~~administer~~ monitor residential and outpatient care
20 facilities ~~of the state~~ for persons ~~who are mentally ill~~ with mental illness, persons
21 suffering from substance-related or addictive disorders, and persons suffering from
22 co-occurring mental illness and substance-related or addictive disorders.

23 * * *

24 §259. Transfer of agencies and functions to Louisiana Department of Health

25 C. The following agencies, as defined by R.S. 36:3, are transferred to and
26 hereafter shall be within the Louisiana Department of Health, as provided in Part II
27 of Chapter 22 of this Title:

28 * * *

1 (10) ~~East Louisiana State Hospital~~ Eastern Louisiana Mental Health System
2 (Jackson)

3 * * *

4 (16) The ~~mental~~ behavioral health facilities located in New Orleans, Baton
5 Rouge, Shreveport, Monroe, Lake Charles, Alexandria, Lafayette, Metairie,
6 Hammond, Natchitoches, Ruston, Chalmette, Houma, Harvey, Marksville, Bogalusa,
7 Pineville, Many, New Roads, Covington, Crowley, Donaldsonville, Plaquemine,
8 Raceland, Leesville, Norco, Mandeville, Ville Platte, Patterson, Tallulah, Columbia,
9 Oakdale, and any other ~~state owned or operated~~ state-owned or state-operated
10 facilities as may be hereinafter established (~~R.S. 28:22.4-22.5~~ R.S. 28:22.5)

11 * * *

12 Section 4. R.S. 40:1237.1(A)(9)(a)(ii)(introductory paragraph) and 2142(A) are
13 hereby amended and reenacted to read as follows:

14 §1237.1. Definitions and general application

15 A. As used in this Part:

16 * * *

17 (9)(a) "State health care provider" or "person covered by this Part" means:

18 * * *

19 (ii) A person acting in a professional capacity in providing health care
20 services, by or on behalf of the state, including but not limited to a physician,
21 psychologist, coroner, and assistant coroner who is a licensed physician when acting
22 solely in accordance with the ~~Mental~~ Behavioral Health Law as provided in R.S.
23 28:50 et seq., provided that the premium costs of such malpractice coverage shall be
24 the responsibility of the coroner's office, dentist, a licensed dietician or licensed
25 nutritionist employed by, referred by, or performing work under contract for, a state
26 health care provider or other person already covered by this Part, registered nurse,
27 licensed practical nurse, nurse practitioner, clinical nurse specialist, pharmacist,
28 optometrist, podiatrist, physical therapist, occupational therapist, licensed respiratory
29 therapist, licensed radiologic technologist, licensed clinical laboratory scientist,

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 social worker, hospital administrator, or licensed professional counselor, who is
2 either:

3 * * *

4 §2142. Geriatric hospitals and units

5 A. The department may establish and administer geriatric hospitals or units
6 to receive and care for persons who are elderly or infirm who have been discharged
7 by a hospital for persons with mental illness and for other persons who are elderly
8 or infirm who are in need of nursing and medical care. Such hospitals or units may
9 be established on sites designated by the department in quarters constructed or
10 designated by the department, provided that no such geriatric hospital or unit may
11 be established on any site located more than five air miles from the administrative
12 office of ~~East Louisiana State Hospital~~ Eastern Louisiana Mental Health System or
13 more than one air mile from the administrative office of Central Louisiana State
14 Hospital.

15 * * *

16 Section 5. Code of Criminal Procedure Articles 648(A)(1) and (B)(1), 657,
17 657.1(A)(4), and 657.2(A) are hereby amended and reenacted to read as follows:

18 Art. 648. Procedure after determination of mental capacity or incapacity

19 A. The criminal prosecution shall be resumed unless the court determines by
20 a preponderance of the evidence that the defendant does not have the mental capacity
21 to proceed. If the court determines that the defendant lacks mental capacity to
22 proceed, the proceedings shall be suspended and one of the following dispositions
23 made:

24 (1) If the court determines that the defendant's mental capacity is likely to
25 be restored within ninety days by outpatient care and treatment at ~~an institution~~ a
26 treatment facility as defined by ~~R.S. 28:2(29)~~ R.S. 28:2 while remaining in the
27 custody of the criminal authorities, and if the person is not charged with a felony or
28 a misdemeanor classified as an offense against the person and is considered by the

1 court to be unlikely to commit crimes of violence, then the court may order
2 outpatient care and treatment at any institution as defined by ~~R.S. 28:2(29)~~ R.S. 28:2.

3 * * *

4 B.(1) In no instance shall such custody, care, and treatment exceed the time
5 of the maximum sentence the defendant could receive if convicted of the crime with
6 which he is charged. At any time after commitment and on the recommendation of
7 the ~~superintendent of the institution~~ director or administrator of the treatment facility
8 that the defendant will not attain the capacity to proceed with his trial in the
9 foreseeable future, the court shall, within sixty days and after at least ten days notice
10 to the district attorney, defendant's counsel, and the ~~Bureau of Legal Services~~ bureau
11 of legal services of the Louisiana Department of Health, conduct a contradictory
12 hearing to determine whether the ~~mentally defective~~ defendant is, and will in the
13 foreseeable future be, incapable of standing trial and whether he is a danger to
14 himself or others.

15 * * *

16 Art. 657. Discharge or release; hearing

17 After considering the report or reports filed pursuant to Articles 655 and 656,
18 the court may either continue the commitment or hold a contradictory hearing to
19 determine whether the committed person is no longer ~~mentally ill~~ has a mental
20 illness as defined by ~~R.S. 28:2(14)~~ R.S. 28:2 and can be discharged, or can be
21 released on probation, without danger to others or to himself as defined by ~~R.S.~~
22 ~~28:2(3) and (4)~~ R.S. 28:2. At the hearing the burden shall be upon the state to seek
23 continuance of the confinement by proving by clear and convincing evidence that the
24 committed person is currently ~~both mentally ill~~ has a mental illness and is dangerous.
25 After the hearing, and upon filing written findings of fact and conclusions of law, the
26 court may order the committed person discharged, released on probation subject to
27 specified conditions for a fixed or an indeterminate period, or recommitted to the
28 state mental institution. A copy of the judgment and order containing the written
29 findings of fact and conclusions of law shall be forwarded to the administrator of the
30 forensic facility. Notice to the counsel for the committed person and the district

1 attorney of the contradictory hearing shall be given at least thirty days prior to the
2 hearing.

3 Art. 657.1. Conditional release; criteria

4 A. At any time the court considers a recommendation from the hospital-
5 based review panel that the person may be discharged or released on probation, it
6 may place the insanity acquittee on conditional release if it finds the following:

7 * * *

8 (4) Conditional release will not present an undue risk of danger to others or
9 self, as defined in ~~R.S. 28:2(3) and (4)~~ R.S. 28:2.

10 * * *

11 Art. 657.2. Conditional release; additional requirements

12 A. Upon an application for conditional release of a person, who has been
13 committed to a state hospital or other treatment facility pursuant to this Chapter upon
14 the grounds that the adverse effects of a mental illness are in remission, and if after
15 a hearing the court determines that the applicant will not likely be a danger to others
16 or himself, as defined in ~~R.S. 28:2(3) and (4)~~ R.S. 28:2, if he is under supervision
17 and his treatment is monitored in the community, the court shall not consider the
18 applicant to be in stable remission from the adverse effects of a mental illness until
19 the applicant is placed with an appropriate forensic conditional release program for
20 at least one year but not more than five years.

21 * * *

22 Section 6. Children's Code Article 1404(9) is hereby amended and reenacted to read
23 as follows:

24 Art. 1404. Definitions

25 As used in this Title:

26 * * *

27 (9) "Family psychiatric mental health nurse practitioner" means an individual
28 who maintains the credentials as such and meets the requirements of a "psychiatric
29 mental health nurse practitioner" as provided in ~~R.S. 28:2(21.2)~~ R.S. 28:2. Further,

1 a family psychiatric mental health nurse practitioner shall have been engaged in
2 clinical practice for not less than three years.

3 * * *

4 Section 7. R.S. 28:2(11), 22.4, 22.10, 52.1, 95, 100.1, 182, Chapter 6 of Title 28 of
5 the Louisiana Revised Statutes of 1950, comprised of R.S. 28:501 through 506, and Chapter
6 7 of Title 28 of the Louisiana Revised Statutes of 1950, comprised of R.S. 28:561, are
7 hereby repealed in their entirety.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____