
SENATE BILL 6739

State of Washington 60th Legislature 2008 Regular Session

By Senators Franklin, Prentice, Marr, and Jacobsen

Read first time 01/22/08. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to psychiatric advanced registered nurse
2 practitioners; amending RCW 71.05.215 and 71.05.217; and reenacting and
3 amending RCW 71.05.020.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 71.05.020 and 2007 c 375 s 6 and 2007 c 191 s 2 are
6 each reenacted and amended to read as follows:

7 The definitions in this section apply throughout this chapter
8 unless the context clearly requires otherwise.

9 (1) "Admission" or "admit" means a decision by a physician or
10 advanced nurse practitioner that a person should be examined or treated
11 as a patient in a hospital;

12 (2) "Antipsychotic medications" means that class of drugs primarily
13 used to treat serious manifestations of mental illness associated with
14 thought disorders, which includes, but is not limited to atypical
15 antipsychotic medications;

16 (3) "Attending staff" means any person on the staff of a public or
17 private agency having responsibility for the care and treatment of a
18 patient;

1 (4) "Commitment" means the determination by a court that a person
2 should be detained for a period of either evaluation or treatment, or
3 both, in an inpatient or a less restrictive setting;

4 (5) "Conditional release" means a revocable modification of a
5 commitment, which may be revoked upon violation of any of its terms;

6 (6) "Crisis stabilization unit" means a short-term facility or a
7 portion of a facility licensed by the department of health and
8 certified by the department of social and health services under RCW
9 71.24.035, such as an evaluation and treatment facility or a hospital,
10 which has been designed to assess, diagnose, and treat individuals
11 experiencing an acute crisis without the use of long-term
12 hospitalization;

13 (7) "Custody" means involuntary detention under the provisions of
14 this chapter or chapter 10.77 RCW, uninterrupted by any period of
15 unconditional release from commitment from a facility providing
16 involuntary care and treatment;

17 (8) "Department" means the department of social and health
18 services;

19 (9) "Designated chemical dependency specialist" means a person
20 designated by the county alcoholism and other drug addiction program
21 coordinator designated under RCW 70.96A.310 to perform the commitment
22 duties described in chapters 70.96A and 70.96B RCW;

23 (10) "Designated crisis responder" means a mental health
24 professional appointed by the county or the regional support network to
25 perform the duties specified in this chapter;

26 (11) "Designated mental health professional" means a mental health
27 professional designated by the county or other authority authorized in
28 rule to perform the duties specified in this chapter;

29 (12) "Detention" or "detain" means the lawful confinement of a
30 person, under the provisions of this chapter;

31 (13) "Developmental disabilities professional" means a person who
32 has specialized training and three years of experience in directly
33 treating or working with persons with developmental disabilities and is
34 a psychiatrist, psychologist, psychiatric advanced registered nurse
35 practitioner, or social worker, and such other developmental
36 disabilities professionals as may be defined by rules adopted by the
37 secretary;

1 (14) "Developmental disability" means that condition defined in RCW
2 71A.10.020(3);

3 (15) "Discharge" means the termination of hospital medical
4 authority. The commitment may remain in place, be terminated, or be
5 amended by court order;

6 (16) "Evaluation and treatment facility" means any facility which
7 can provide directly, or by direct arrangement with other public or
8 private agencies, emergency evaluation and treatment, outpatient care,
9 and timely and appropriate inpatient care to persons suffering from a
10 mental disorder, and which is certified as such by the department. A
11 physically separate and separately operated portion of a state hospital
12 may be designated as an evaluation and treatment facility. A facility
13 which is part of, or operated by, the department or any federal agency
14 will not require certification. No correctional institution or
15 facility, or jail, shall be an evaluation and treatment facility within
16 the meaning of this chapter;

17 (17) "Gravely disabled" means a condition in which a person, as a
18 result of a mental disorder: (a) Is in danger of serious physical harm
19 resulting from a failure to provide for his or her essential human
20 needs of health or safety; or (b) manifests severe deterioration in
21 routine functioning evidenced by repeated and escalating loss of
22 cognitive or volitional control over his or her actions and is not
23 receiving such care as is essential for his or her health or safety;

24 (18) "Habilitative services" means those services provided by
25 program personnel to assist persons in acquiring and maintaining life
26 skills and in raising their levels of physical, mental, social, and
27 vocational functioning. Habilitative services include education,
28 training for employment, and therapy. The habilitative process shall
29 be undertaken with recognition of the risk to the public safety
30 presented by the person being assisted as manifested by prior charged
31 criminal conduct;

32 (19) "History of one or more violent acts" refers to the period of
33 time ten years prior to the filing of a petition under this chapter,
34 excluding any time spent, but not any violent acts committed, in a
35 mental health facility or in confinement as a result of a criminal
36 conviction;

37 (20) "Imminent" means the state or condition of being likely to
38 occur at any moment or near at hand, rather than distant or remote;

1 (21) "Individualized service plan" means a plan prepared by a
2 developmental disabilities professional with other professionals as a
3 team, for a person with developmental disabilities, which shall state:

4 (a) The nature of the person's specific problems, prior charged
5 criminal behavior, and habilitation needs;

6 (b) The conditions and strategies necessary to achieve the purposes
7 of habilitation;

8 (c) The intermediate and long-range goals of the habilitation
9 program, with a projected timetable for the attainment;

10 (d) The rationale for using this plan of habilitation to achieve
11 those intermediate and long-range goals;

12 (e) The staff responsible for carrying out the plan;

13 (f) Where relevant in light of past criminal behavior and due
14 consideration for public safety, the criteria for proposed movement to
15 less-restrictive settings, criteria for proposed eventual discharge or
16 release, and a projected possible date for discharge or release; and

17 (g) The type of residence immediately anticipated for the person
18 and possible future types of residences;

19 (22) "Judicial commitment" means a commitment by a court pursuant
20 to the provisions of this chapter;

21 (23) "Likelihood of serious harm" means:

22 (a) A substantial risk that: (i) Physical harm will be inflicted
23 by a person upon his or her own person, as evidenced by threats or
24 attempts to commit suicide or inflict physical harm on oneself; (ii)
25 physical harm will be inflicted by a person upon another, as evidenced
26 by behavior which has caused such harm or which places another person
27 or persons in reasonable fear of sustaining such harm; or (iii)
28 physical harm will be inflicted by a person upon the property of
29 others, as evidenced by behavior which has caused substantial loss or
30 damage to the property of others; or

31 (b) The person has threatened the physical safety of another and
32 has a history of one or more violent acts;

33 (24) "Mental disorder" means any organic, mental, or emotional
34 impairment which has substantial adverse effects on a person's
35 cognitive or volitional functions;

36 (25) "Mental health professional" means a psychiatrist,
37 psychologist, psychiatric nurse, or social worker, and such other

1 mental health professionals as may be defined by rules adopted by the
2 secretary pursuant to the provisions of this chapter;

3 (26) "Peace officer" means a law enforcement official of a public
4 agency or governmental unit, and includes persons specifically given
5 peace officer powers by any state law, local ordinance, or judicial
6 order of appointment;

7 (27) "Private agency" means any person, partnership, corporation,
8 or association that is not a public agency, whether or not financed in
9 whole or in part by public funds, which constitutes an evaluation and
10 treatment facility or private institution, or hospital, which is
11 conducted for, or includes a department or ward conducted for, the care
12 and treatment of persons who are mentally ill;

13 (28) "Professional person" means a mental health professional and
14 shall also mean a physician, psychiatric advanced registered nurse
15 practitioner, registered nurse, and such others as may be defined by
16 rules adopted by the secretary pursuant to the provisions of this
17 chapter;

18 (29) "Psychiatric advanced registered nurse practitioner" means a
19 person who is licensed as an advanced registered nurse practitioner
20 pursuant to chapter 18.79 RCW; and who is board certified in advanced
21 practice psychiatric and mental health nursing.

22 (30) "Psychiatrist" means a person having a license as a physician
23 and surgeon in this state who has in addition completed three years of
24 graduate training in psychiatry in a program approved by the American
25 medical association or the American osteopathic association and is
26 certified or eligible to be certified by the American board of
27 psychiatry and neurology;

28 ((+30+)) (31) "Psychologist" means a person who has been licensed
29 as a psychologist pursuant to chapter 18.83 RCW;

30 ((+31+)) (32) "Public agency" means any evaluation and treatment
31 facility or institution, or hospital which is conducted for, or
32 includes a department or ward conducted for, the care and treatment of
33 persons with mental illness, if the agency is operated directly by,
34 federal, state, county, or municipal government, or a combination of
35 such governments;

36 ((+32+)) (33) "Registration records" include all the records of the
37 department, regional support networks, treatment facilities, and other

1 persons providing services to the department, county departments, or
2 facilities which identify persons who are receiving or who at any time
3 have received services for mental illness;

4 ~~((+33+))~~ (34) "Release" means legal termination of the commitment
5 under the provisions of this chapter;

6 ~~((+34+))~~ (35) "Resource management services" has the meaning given
7 in chapter 71.24 RCW;

8 ~~((+35+))~~ (36) "Secretary" means the secretary of the department of
9 social and health services, or his or her designee;

10 ~~((+36+))~~ (37) "Social worker" means a person with a master's or
11 further advanced degree from an accredited school of social work or a
12 degree deemed equivalent under rules adopted by the secretary;

13 ~~((+37+))~~ (38) "Treatment records" include registration and all
14 other records concerning persons who are receiving or who at any time
15 have received services for mental illness, which are maintained by the
16 department, by regional support networks and their staffs, and by
17 treatment facilities. Treatment records include mental health
18 information contained in a medical bill including but not limited to
19 mental health drugs, a mental health diagnosis, provider name, and
20 dates of service stemming from a medical service. Treatment records do
21 not include notes or records maintained for personal use by a person
22 providing treatment services for the department, regional support
23 networks, or a treatment facility if the notes or records are not
24 available to others;

25 ~~((+38+))~~ (39) "Violent act" means behavior that resulted in
26 homicide, attempted suicide, nonfatal injuries, or substantial damage
27 to property.

28 **Sec. 2.** RCW 71.05.215 and 1997 c 112 s 16 are each amended to read
29 as follows:

30 (1) A person found to be gravely disabled or presents a likelihood
31 of serious harm as a result of a mental disorder has a right to refuse
32 antipsychotic medication unless it is determined that the failure to
33 medicate may result in a likelihood of serious harm or substantial
34 deterioration or substantially prolong the length of involuntary
35 commitment and there is no less intrusive course of treatment than
36 medication in the best interest of that person.

1 (2) The department shall adopt rules to carry out the purposes of
2 this chapter. These rules shall include:

3 (a) An attempt to obtain the informed consent of the person prior
4 to administration of antipsychotic medication.

5 (b) For short-term treatment up to thirty days, the right to refuse
6 antipsychotic medications unless there is an additional concurring
7 medical opinion approving medication by a psychiatrist, psychiatric
8 advanced registered nurse practitioner, or physician in consultation
9 with a mental health professional with prescriptive authority.

10 (c) For continued treatment beyond thirty days through the hearing
11 on any petition filed under RCW ((71.05.370(7))) 71.05.217, the right
12 to periodic review of the decision to medicate by the medical director
13 or designee.

14 (d) Administration of antipsychotic medication in an emergency and
15 review of this decision within twenty-four hours. An emergency exists
16 if the person presents an imminent likelihood of serious harm, and
17 medically acceptable alternatives to administration of antipsychotic
18 medications are not available or are unlikely to be successful; and in
19 the opinion of the physician or psychiatric advanced registered nurse
20 practitioner, the person's condition constitutes an emergency requiring
21 the treatment be instituted prior to obtaining a second medical
22 opinion.

23 (e) Documentation in the medical record of the ((physician's))
24 attempt by the physician or psychiatric advanced registered nurse
25 practitioner to obtain informed consent and the reasons why
26 antipsychotic medication is being administered over the person's
27 objection or lack of consent.

28 **Sec. 3.** RCW 71.05.217 and 1997 c 112 s 31 are each amended to read
29 as follows:

30 Insofar as danger to the individual or others is not created, each
31 person involuntarily detained, treated in a less restrictive
32 alternative course of treatment, or committed for treatment and
33 evaluation pursuant to this chapter shall have, in addition to other
34 rights not specifically withheld by law, the following rights, a list
35 of which shall be prominently posted in all facilities, institutions,
36 and hospitals providing such services:

1 (1) To wear his or her own clothes and to keep and use his or her
2 own personal possessions, except when deprivation of same is essential
3 to protect the safety of the resident or other persons;

4 (2) To keep and be allowed to spend a reasonable sum of his or her
5 own money for canteen expenses and small purchases;

6 (3) To have access to individual storage space for his or her
7 private use;

8 (4) To have visitors at reasonable times;

9 (5) To have reasonable access to a telephone, both to make and
10 receive confidential calls;

11 (6) To have ready access to letter writing materials, including
12 stamps, and to send and receive uncensored correspondence through the
13 mails;

14 (7) Not to consent to the administration of antipsychotic
15 medications beyond the hearing conducted pursuant to RCW
16 71.05.320(~~(+2)~~) (3) or the performance of electroconvulsant therapy or
17 surgery, except emergency life-saving surgery, unless ordered by a
18 court of competent jurisdiction pursuant to the following standards and
19 procedures:

20 (a) The administration of antipsychotic medication or
21 electroconvulsant therapy shall not be ordered unless the petitioning
22 party proves by clear, cogent, and convincing evidence that there
23 exists a compelling state interest that justifies overriding the
24 patient's lack of consent to the administration of antipsychotic
25 medications or electroconvulsant therapy, that the proposed treatment
26 is necessary and effective, and that medically acceptable alternative
27 forms of treatment are not available, have not been successful, or are
28 not likely to be effective.

29 (b) The court shall make specific findings of fact concerning: (i)
30 The existence of one or more compelling state interests; (ii) the
31 necessity and effectiveness of the treatment; and (iii) the person's
32 desires regarding the proposed treatment. If the patient is unable to
33 make a rational and informed decision about consenting to or refusing
34 the proposed treatment, the court shall make a substituted judgment for
35 the patient as if he or she were competent to make such a
36 determination.

37 (c) The person shall be present at any hearing on a request to
38 administer antipsychotic medication or electroconvulsant therapy filed

1 pursuant to this subsection. The person has the right: (i) To be
2 represented by an attorney; (ii) to present evidence; (iii) to cross-
3 examine witnesses; (iv) to have the rules of evidence enforced; (v) to
4 remain silent; (vi) to view and copy all petitions and reports in the
5 court file; and (vii) to be given reasonable notice and an opportunity
6 to prepare for the hearing. The court may appoint a psychiatrist,
7 psychiatric advanced registered nurse practitioner, psychologist within
8 their scope of practice, or physician to examine and testify on behalf
9 of such person. The court shall appoint a psychiatrist, psychiatric
10 advanced registered nurse practitioner, psychologist within their scope
11 of practice, or physician designated by such person or the person's
12 counsel to testify on behalf of the person in cases where an order for
13 electroconvulsant therapy is sought.

14 (d) An order for the administration of antipsychotic medications
15 entered following a hearing conducted pursuant to this section shall be
16 effective for the period of the current involuntary treatment order,
17 and any interim period during which the person is awaiting trial or
18 hearing on a new petition for involuntary treatment or involuntary
19 medication.

20 (e) Any person detained pursuant to RCW 71.05.320(~~(+2)~~) (3), who
21 subsequently refuses antipsychotic medication, shall be entitled to the
22 procedures set forth in (~~(RCW 71.05.217(7))~~) this subsection.

23 (f) Antipsychotic medication may be administered to a nonconsenting
24 person detained or committed pursuant to this chapter without a court
25 order pursuant to RCW 71.05.215(2) or under the following
26 circumstances:

- 27 (i) A person presents an imminent likelihood of serious harm;
28 (ii) Medically acceptable alternatives to administration of
29 antipsychotic medications are not available, have not been successful,
30 or are not likely to be effective; and
31 (iii) In the opinion of the physician or psychiatric advanced
32 registered nurse practitioner with responsibility for treatment of the
33 person, or his or her designee, the person's condition constitutes an
34 emergency requiring the treatment be instituted before a judicial
35 hearing as authorized pursuant to this section can be held.

36 If antipsychotic medications are administered over a person's lack
37 of consent pursuant to this subsection, a petition for an order
38 authorizing the administration of antipsychotic medications shall be

1 filed on the next judicial day. The hearing shall be held within two
2 judicial days. If deemed necessary by the physician or psychiatric
3 advanced registered nurse practitioner with responsibility for the
4 treatment of the person, administration of antipsychotic medications
5 may continue until the hearing is held;

6 (8) To dispose of property and sign contracts unless such person
7 has been adjudicated an incompetent in a court proceeding directed to
8 that particular issue;

9 (9) Not to have psychosurgery performed on him or her under any
10 circumstances.

--- END ---