
SUBSTITUTE SENATE BILL 6445

State of Washington

64th Legislature

2016 Regular Session

By Senate Health Care (originally sponsored by Senators Braun and Angel)

READ FIRST TIME 02/05/16.

1 AN ACT Relating to clarifying the role of physician assistants in
2 the delivery of mental health services; amending RCW 71.05.215,
3 71.05.217, 71.05.230, 71.05.290, 71.05.300, 71.05.360, 71.05.660,
4 71.06.040, 71.12.540, 71.32.110, 71.32.140, 71.32.250, 71.32.260,
5 71.34.020, 71.34.355, 71.34.720, 71.34.730, 71.34.750, 71.34.770,
6 18.71A.030, and 18.57A.030; reenacting and amending RCW 71.05.020,
7 71.05.210, and 71.24.025; and providing an effective date.

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

9 **Sec. 1.** RCW 71.05.020 and 2015 c 269 s 14 and 2015 c 250 s 2 are
10 each reenacted and amended to read as follows:

11 The definitions in this section apply throughout this chapter
12 unless the context clearly requires otherwise.

13 (1) "Admission" or "admit" means a decision by a physician,
14 physician assistant, or psychiatric advanced registered nurse
15 practitioner that a person should be examined or treated as a patient
16 in a hospital;

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

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

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

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

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

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

20 (8) "Department" means the department of social and health
21 services;

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

26 (10) "Designated crisis responder" means a mental health
27 professional appointed by the county or the behavioral health
28 organization to perform the duties specified in this chapter;

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

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

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

1 (14) "Developmental disability" means that condition defined in
2 RCW 71A.10.020(5);

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
9 care, and timely and appropriate inpatient care to persons suffering
10 from a mental disorder, and which is certified as such by the
11 department. The department may certify single beds as temporary
12 evaluation and treatment beds under RCW 71.05.745. A physically
13 separate and separately operated portion of a state hospital may be
14 designated as an evaluation and treatment facility. A facility which
15 is part of, or operated by, the department or any federal agency will
16 not require certification. No correctional institution or facility,
17 or jail, shall be an evaluation and treatment facility within the
18 meaning of this chapter;

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

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

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

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

3 (21) "In need of assisted outpatient mental health treatment"
4 means that a person, as a result of a mental disorder: (a) Has been
5 committed by a court to detention for involuntary mental health
6 treatment at least twice during the preceding thirty-six months, or,
7 if the person is currently committed for involuntary mental health
8 treatment, the person has been committed to detention for involuntary
9 mental health treatment at least once during the thirty-six months
10 preceding the date of initial detention of the current commitment
11 cycle; (b) is unlikely to voluntarily participate in outpatient
12 treatment without an order for less restrictive alternative
13 treatment, in view of the person's treatment history or current
14 behavior; (c) is unlikely to survive safely in the community without
15 supervision; (d) is likely to benefit from less restrictive
16 alternative treatment; and (e) requires less restrictive alternative
17 treatment to prevent a relapse, decompensation, or deterioration that
18 is likely to result in the person presenting a likelihood of serious
19 harm or the person becoming gravely disabled within a reasonably
20 short period of time. For purposes of (a) of this subsection, time
21 spent in a mental health facility or in confinement as a result of a
22 criminal conviction is excluded from the thirty-six month
23 calculation;

24 (22) "Individualized service plan" means a plan prepared by a
25 developmental disabilities professional with other professionals as a
26 team, for a person with developmental disabilities, which shall
27 state:

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

30 (b) The conditions and strategies necessary to achieve the
31 purposes of habilitation;

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

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

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

37 (f) Where relevant in light of past criminal behavior and due
38 consideration for public safety, the criteria for proposed movement
39 to less-restrictive settings, criteria for proposed eventual

1 discharge or release, and a projected possible date for discharge or
2 release; and

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

5 (23) "Information related to mental health services" means all
6 information and records compiled, obtained, or maintained in the
7 course of providing services to either voluntary or involuntary
8 recipients of services by a mental health service provider. This may
9 include documents of legal proceedings under this chapter or chapter
10 71.34 or 10.77 RCW, or somatic health care information;

11 (24) "Judicial commitment" means a commitment by a court pursuant
12 to the provisions of this chapter;

13 (25) "Legal counsel" means attorneys and staff employed by county
14 prosecutor offices or the state attorney general acting in their
15 capacity as legal representatives of public mental health service
16 providers under RCW 71.05.130;

17 (26) "Less restrictive alternative treatment" means a program of
18 individualized treatment in a less restrictive setting than inpatient
19 treatment that includes the services described in RCW 71.05.585;

20 (27) "Likelihood of serious harm" means:

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

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

32 (28) "Medical clearance" means a physician or other health care
33 provider has determined that a person is medically stable and ready
34 for referral to the designated mental health professional;

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

38 (30) "Mental health professional" means a psychiatrist,
39 psychologist, physician assistant, psychiatric advanced registered
40 nurse practitioner, psychiatric nurse, or social worker, and such

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

3 (31) "Mental health service provider" means a public or private
4 agency that provides mental health services to persons with mental
5 disorders as defined under this section and receives funding from
6 public sources. This includes, but is not limited to, hospitals
7 licensed under chapter 70.41 RCW, evaluation and treatment facilities
8 as defined in this section, community mental health service delivery
9 systems or community mental health programs as defined in RCW
10 71.24.025, facilities conducting competency evaluations and
11 restoration under chapter 10.77 RCW, and correctional facilities
12 operated by state and local governments;

13 (32) "Peace officer" means a law enforcement official of a public
14 agency or governmental unit, and includes persons specifically given
15 peace officer powers by any state law, local ordinance, or judicial
16 order of appointment;

17 (33) "Private agency" means any person, partnership, corporation,
18 or association that is not a public agency, whether or not financed
19 in whole or in part by public funds, which constitutes an evaluation
20 and treatment facility or private institution, or hospital, which is
21 conducted for, or includes a department or ward conducted for, the
22 care and treatment of persons who are mentally ill;

23 (34) "Professional person" means a mental health professional and
24 shall also mean a physician, physician assistant, psychiatric
25 advanced registered nurse practitioner, registered nurse, and such
26 others as may be defined by rules adopted by the secretary pursuant
27 to the provisions of this chapter;

28 (35) "Psychiatric advanced registered nurse practitioner" means a
29 person who is licensed as an advanced registered nurse practitioner
30 pursuant to chapter 18.79 RCW; and who is board certified in advanced
31 practice psychiatric and mental health nursing;

32 (36) "Psychiatrist" means a person having a license as a
33 physician and surgeon in this state who has in addition completed
34 three years of graduate training in psychiatry in a program approved
35 by the American medical association or the American osteopathic
36 association and is certified or eligible to be certified by the
37 American board of psychiatry and neurology;

38 (37) "Psychologist" means a person who has been licensed as a
39 psychologist pursuant to chapter 18.83 RCW;

1 (38) "Public agency" means any evaluation and treatment facility
2 or institution, or hospital which is conducted for, or includes a
3 department or ward conducted for, the care and treatment of persons
4 with mental illness, if the agency is operated directly by, federal,
5 state, county, or municipal government, or a combination of such
6 governments;

7 (39) "Registration records" include all the records of the
8 department, behavioral health organizations, treatment facilities,
9 and other persons providing services to the department, county
10 departments, or facilities which identify persons who are receiving
11 or who at any time have received services for mental illness;

12 (40) "Release" means legal termination of the commitment under
13 the provisions of this chapter;

14 (41) "Resource management services" has the meaning given in
15 chapter 71.24 RCW;

16 (42) "Secretary" means the secretary of the department of social
17 and health services, or his or her designee;

18 (43) "Serious violent offense" has the same meaning as provided
19 in RCW 9.94A.030;

20 (44) "Social worker" means a person with a master's or further
21 advanced degree from a social work educational program accredited and
22 approved as provided in RCW 18.320.010;

23 (45) "Therapeutic court personnel" means the staff of a mental
24 health court or other therapeutic court which has jurisdiction over
25 defendants who are dually diagnosed with mental disorders, including
26 court personnel, probation officers, a court monitor, prosecuting
27 attorney, or defense counsel acting within the scope of therapeutic
28 court duties;

29 (46) "Treatment records" include registration and all other
30 records concerning persons who are receiving or who at any time have
31 received services for mental illness, which are maintained by the
32 department, by behavioral health organizations and their staffs, and
33 by treatment facilities. Treatment records include mental health
34 information contained in a medical bill including but not limited to
35 mental health drugs, a mental health diagnosis, provider name, and
36 dates of service stemming from a medical service. Treatment records
37 do not include notes or records maintained for personal use by a
38 person providing treatment services for the department, behavioral
39 health organizations, or a treatment facility if the notes or records
40 are not available to others;

1 (47) "Triage facility" means a short-term facility or a portion
2 of a facility licensed by the department of health and certified by
3 the department of social and health services under RCW 71.24.035,
4 which is designed as a facility to assess and stabilize an individual
5 or determine the need for involuntary commitment of an individual,
6 and must meet department of health residential treatment facility
7 standards. A triage facility may be structured as a voluntary or
8 involuntary placement facility;

9 (48) "Violent act" means behavior that resulted in homicide,
10 attempted suicide, nonfatal injuries, or substantial damage to
11 property;

12 (49) "Physician assistant" means a person licensed as a physician
13 assistant under chapter 18.57A or 18.71A RCW.

14 **Sec. 2.** RCW 71.05.210 and 2015 c 269 s 7 and 2015 c 250 s 20 are
15 each reenacted and amended to read as follows:

16 (1) Each person involuntarily detained and accepted or admitted
17 at an evaluation and treatment facility ((+1)):

18 (a) Shall, within twenty-four hours of his or her admission or
19 acceptance at the facility, not counting time periods prior to
20 medical clearance, be examined and evaluated by ((+a) a licensed
21 physician who may be assisted by a physician assistant according to
22 chapter 18.71A RCW and a mental health professional, (b) an advanced
23 registered nurse practitioner according to chapter 18.79 RCW and a
24 mental health professional, or (c) a licensed physician and a
25 psychiatric advanced registered nurse practitioner)):

26 (i) Two physicians;

27 (ii) One physician and a mental health professional;

28 (iii) One physician assistant and a mental health professional;

29 (iv) Two physician assistants;

30 (v) Two psychiatric advanced registered nurse practitioners;

31 (vi) One psychiatric advanced registered nurse practitioner and a
32 mental health professional; or

33 (vii) A physician and a psychiatric advanced registered nurse
34 practitioner or a physician assistant; and

35 ((+2)) (b) Shall receive such treatment and care as his or her
36 condition requires including treatment on an outpatient basis for the
37 period that he or she is detained, except that, beginning twenty-four
38 hours prior to a trial or hearing pursuant to RCW 71.05.215,
39 71.05.240, 71.05.310, 71.05.320, 71.05.590, or 71.05.217, the

1 individual may refuse psychiatric medications, but may not refuse:
2 ((+a)) (i) Any other medication previously prescribed by a person
3 licensed under Title 18 RCW; or ((+b)) (ii) emergency lifesaving
4 treatment, and the individual shall be informed at an appropriate
5 time of his or her right of such refusal. The person shall be
6 detained up to seventy-two hours, if, in the opinion of the
7 professional person in charge of the facility, or his or her
8 professional designee, the person presents a likelihood of serious
9 harm, or is gravely disabled. A person who has been detained for
10 seventy-two hours shall no later than the end of such period be
11 released, unless referred for further care on a voluntary basis, or
12 detained pursuant to court order for further treatment as provided in
13 this chapter.

14 (2) If, after examination and evaluation, the mental health
15 professional and licensed physician, physician assistant, or
16 psychiatric advanced registered nurse practitioner determine that the
17 initial needs of the person would be better served by placement in a
18 chemical dependency treatment facility, then the person shall be
19 referred to an approved treatment program defined under RCW
20 70.96A.020.

21 (3) An evaluation and treatment center admitting or accepting any
22 person pursuant to this chapter whose physical condition reveals the
23 need for hospitalization shall assure that such person is transferred
24 to an appropriate hospital for evaluation or admission for treatment.
25 Notice of such fact shall be given to the court, the designated
26 attorney, and the designated mental health professional and the court
27 shall order such continuance in proceedings under this chapter as may
28 be necessary, but in no event may this continuance be more than
29 fourteen days.

30 **Sec. 3.** RCW 71.05.215 and 2008 c 156 s 2 are each amended to
31 read as follows:

32 (1) A person found to be gravely disabled or presents a
33 likelihood of serious harm as a result of a mental disorder has a
34 right to refuse antipsychotic medication unless it is determined that
35 the failure to medicate may result in a likelihood of serious harm or
36 substantial deterioration or substantially prolong the length of
37 involuntary commitment and there is no less intrusive course of
38 treatment than 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
6 refuse antipsychotic medications unless there is an additional
7 concurring medical opinion approving medication by a psychiatrist,
8 physician assistant, psychiatric advanced registered nurse
9 practitioner, or physician in consultation with a mental health
10 professional with prescriptive authority.

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

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

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

29 **Sec. 4.** RCW 71.05.217 and 2008 c 156 s 3 are each amended to
30 read as follows:

31 Insofar as danger to the individual or others is not created,
32 each person involuntarily detained, treated in a less restrictive
33 alternative course of treatment, or committed for treatment and
34 evaluation pursuant to this chapter shall have, in addition to other
35 rights not specifically withheld by law, the following rights, a list
36 of which shall be prominently posted in all facilities, institutions,
37 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
3 essential 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
5 her 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(~~(+3)~~) (4) or the performance of electroconvulsant therapy
17 or surgery, except emergency lifesaving surgery, unless ordered by a
18 court of competent jurisdiction pursuant to the following standards
19 and 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
28 are not likely to be effective.

29 (b) The court shall make specific findings of fact concerning:
30 (i) 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
35 for 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
39 filed pursuant to this subsection. The person has the right: (i) To
40 be represented by an attorney; (ii) to present evidence; (iii) to

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

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

19 (e) Any person detained pursuant to RCW 71.05.320(~~((+3))~~) (4), who
20 subsequently refuses antipsychotic medication, shall be entitled to
21 the procedures set forth in this subsection.

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

26 (i) A person presents an imminent likelihood of serious harm;

27 (ii) Medically acceptable alternatives to administration of
28 antipsychotic medications are not available, have not been
29 successful, or are not likely to be effective; and

30 (iii) In the opinion of the physician, physician assistant, or
31 psychiatric advanced registered nurse practitioner with
32 responsibility for treatment of the person, or his or her designee,
33 the person's condition constitutes an emergency requiring the
34 treatment be instituted before a judicial hearing as authorized
35 pursuant to this section can be held.

36 If antipsychotic medications are administered over a person's
37 lack of consent pursuant to this subsection, a petition for an order
38 authorizing the administration of antipsychotic medications shall be
39 filed on the next judicial day. The hearing shall be held within two
40 judicial days. If deemed necessary by the physician, physician

1 assistant, or psychiatric advanced registered nurse practitioner with
2 responsibility for the treatment of the person, administration of
3 antipsychotic medications may continue until the hearing is held;

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

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

9 **Sec. 5.** RCW 71.05.230 and 2015 c 250 s 6 are each amended to
10 read as follows:

11 A person detained or committed for seventy-two hour evaluation
12 and treatment or for an outpatient evaluation for the purpose of
13 filing a petition for a less restrictive alternative treatment order
14 may be committed for not more than fourteen additional days of
15 involuntary intensive treatment or ninety additional days of a less
16 restrictive alternative to involuntary intensive treatment. A
17 petition may only be filed if the following conditions are met:

18 (1) The professional staff of the agency or facility providing
19 evaluation services has analyzed the person's condition and finds
20 that the condition is caused by mental disorder and results in a
21 likelihood of serious harm, results in the person being gravely
22 disabled, or results in the person being in need of assisted
23 outpatient mental health treatment, and are prepared to testify those
24 conditions are met; and

25 (2) The person has been advised of the need for voluntary
26 treatment and the professional staff of the facility has evidence
27 that he or she has not in good faith volunteered; and

28 (3) The agency or facility providing intensive treatment or which
29 proposes to supervise the less restrictive alternative is certified
30 to provide such treatment by the department; and

31 (4) The professional staff of the agency or facility or the
32 designated mental health professional has filed a petition with the
33 court for a fourteen day involuntary detention or a ninety day less
34 restrictive alternative. The petition must be signed either by:

35 (a) Two physicians;

36 (b) One physician and a mental health professional;

37 (c) One physician assistant and a mental health professional;

38 (d) Two physician assistants;

39 (e) Two psychiatric advanced registered nurse practitioners;

1 ~~((d))~~ (f) One psychiatric advanced registered nurse
2 practitioner and a mental health professional; or
3 ~~((e))~~ (g) A physician and a psychiatric advanced registered
4 nurse practitioner or a physician assistant if his or her supervising
5 physician is able to review the petition before it is filed. The
6 persons signing the petition must have examined the person. If
7 involuntary detention is sought the petition shall state facts that
8 support the finding that such person, as a result of mental disorder,
9 presents a likelihood of serious harm, or is gravely disabled and
10 that there are no less restrictive alternatives to detention in the
11 best interest of such person or others. The petition shall state
12 specifically that less restrictive alternative treatment was
13 considered and specify why treatment less restrictive than detention
14 is not appropriate. If an involuntary less restrictive alternative is
15 sought, the petition shall state facts that support the finding that
16 such person, as a result of mental disorder, presents a likelihood of
17 serious harm, is gravely disabled, or is in need of assisted
18 outpatient mental health treatment, and shall set forth a plan for
19 the less restrictive alternative treatment proposed by the facility
20 in accordance with RCW 71.05.585; and
21 (5) A copy of the petition has been served on the detained or
22 committed person, his or her attorney and his or her guardian or
23 conservator, if any, prior to the probable cause hearing; and
24 (6) The court at the time the petition was filed and before the
25 probable cause hearing has appointed counsel to represent such person
26 if no other counsel has appeared; and
27 (7) The petition reflects that the person was informed of the
28 loss of firearm rights if involuntarily committed; and
29 (8) At the conclusion of the initial commitment period, the
30 professional staff of the agency or facility or the designated mental
31 health professional may petition for an additional period of either
32 ninety days of less restrictive alternative treatment or ninety days
33 of involuntary intensive treatment as provided in RCW 71.05.290; and
34 (9) If the hospital or facility designated to provide less
35 restrictive alternative treatment is other than the facility
36 providing involuntary treatment, the outpatient facility so
37 designated to provide less restrictive alternative treatment has
38 agreed to assume such responsibility.

1 **Sec. 6.** RCW 71.05.290 and 2015 c 250 s 10 are each amended to
2 read as follows:

3 (1) At any time during a person's fourteen day intensive
4 treatment period, the professional person in charge of a treatment
5 facility or his or her professional designee or the designated mental
6 health professional may petition the superior court for an order
7 requiring such person to undergo an additional period of treatment.
8 Such petition must be based on one or more of the grounds set forth
9 in RCW 71.05.280.

10 (2) The petition shall summarize the facts which support the need
11 for further commitment and shall be supported by affidavits signed
12 by:

13 (a) Two examining physicians;

14 (b) One examining physician and examining mental health
15 professional;

16 (c) Two psychiatric advanced registered nurse practitioners;

17 (d) Two physician assistants;

18 (e) One psychiatric advanced registered nurse practitioner and a
19 mental health professional; or

20 (~~(e)~~) (f) An examining physician and an examining physician
21 assistant or psychiatric advanced registered nurse practitioner. The
22 affidavits shall describe in detail the behavior of the detained
23 person which supports the petition and shall explain what, if any,
24 less restrictive treatments which are alternatives to detention are
25 available to such person, and shall state the willingness of the
26 affiant to testify to such facts in subsequent judicial proceedings
27 under this chapter. If less restrictive alternative treatment is
28 sought, the petition shall set forth a proposed plan for less
29 restrictive alternative treatment in accordance with RCW 71.05.585.

30 (3) If a person has been determined to be incompetent pursuant to
31 RCW 10.77.086(4), then the professional person in charge of the
32 treatment facility or his or her professional designee or the
33 designated mental health professional may directly file a petition
34 for one hundred eighty day treatment under RCW 71.05.280(3). No
35 petition for initial detention or fourteen day detention is required
36 before such a petition may be filed.

37 **Sec. 7.** RCW 71.05.300 and 2014 c 225 s 84 are each amended to
38 read as follows:

1 (1) The petition for ninety day treatment shall be filed with the
2 clerk of the superior court at least three days before expiration of
3 the fourteen-day period of intensive treatment. At the time of filing
4 such petition, the clerk shall set a time for the person to come
5 before the court on the next judicial day after the day of filing
6 unless such appearance is waived by the person's attorney, and the
7 clerk shall notify the designated mental health professional. The
8 designated mental health professional shall immediately notify the
9 person detained, his or her attorney, if any, and his or her guardian
10 or conservator, if any, the prosecuting attorney, and the behavioral
11 health organization administrator, and provide a copy of the petition
12 to such persons as soon as possible. The behavioral health
13 organization administrator or designee may review the petition and
14 may appear and testify at the full hearing on the petition.

15 (2) At the time set for appearance the detained person shall be
16 brought before the court, unless such appearance has been waived and
17 the court shall advise him or her of his or her right to be
18 represented by an attorney, his or her right to a jury trial, and his
19 or her loss of firearm rights if involuntarily committed. If the
20 detained person is not represented by an attorney, or is indigent or
21 is unwilling to retain an attorney, the court shall immediately
22 appoint an attorney to represent him or her. The court shall, if
23 requested, appoint a reasonably available licensed physician,
24 physician assistant, psychiatric advanced registered nurse
25 practitioner, psychologist, or psychiatrist, designated by the
26 detained person to examine and testify on behalf of the detained
27 person.

28 (3) The court may, if requested, also appoint a professional
29 person as defined in RCW 71.05.020 to seek less restrictive
30 alternative courses of treatment and to testify on behalf of the
31 detained person. In the case of a person with a developmental
32 disability who has been determined to be incompetent pursuant to RCW
33 10.77.086(4), then the appointed professional person under this
34 section shall be a developmental disabilities professional.

35 (4) The court shall also set a date for a full hearing on the
36 petition as provided in RCW 71.05.310.

37 **Sec. 8.** RCW 71.05.360 and 2009 c 217 s 5 are each amended to
38 read as follows:

1 (1)(a) Every person involuntarily detained or committed under the
2 provisions of this chapter shall be entitled to all the rights set
3 forth in this chapter, which shall be prominently posted in the
4 facility, and shall retain all rights not denied him or her under
5 this chapter except as chapter 9.41 RCW may limit the right of a
6 person to purchase or possess a firearm or to qualify for a concealed
7 pistol license.

8 (b) No person shall be presumed incompetent as a consequence of
9 receiving an evaluation or voluntary or involuntary treatment for a
10 mental disorder, under this chapter or any prior laws of this state
11 dealing with mental illness. Competency shall not be determined or
12 withdrawn except under the provisions of chapter 10.77 or 11.88 RCW.

13 (c) Any person who leaves a public or private agency following
14 evaluation or treatment for mental disorder shall be given a written
15 statement setting forth the substance of this section.

16 (2) Each person involuntarily detained or committed pursuant to
17 this chapter shall have the right to adequate care and individualized
18 treatment.

19 (3) The provisions of this chapter shall not be construed to deny
20 to any person treatment by spiritual means through prayer in
21 accordance with the tenets and practices of a church or religious
22 denomination.

23 (4) Persons receiving evaluation or treatment under this chapter
24 shall be given a reasonable choice of an available physician,
25 physician assistant, psychiatric advanced registered nurse
26 practitioner, or other professional person qualified to provide such
27 services.

28 (5) Whenever any person is detained for evaluation and treatment
29 pursuant to this chapter, both the person and, if possible, a
30 responsible member of his or her immediate family, personal
31 representative, guardian, or conservator, if any, shall be advised as
32 soon as possible in writing or orally, by the officer or person
33 taking him or her into custody or by personnel of the evaluation and
34 treatment facility where the person is detained that unless the
35 person is released or voluntarily admits himself or herself for
36 treatment within seventy-two hours of the initial detention:

37 (a) A judicial hearing in a superior court, either by a judge or
38 court commissioner thereof, shall be held not more than seventy-two
39 hours after the initial detention to determine whether there is
40 probable cause to detain the person after the seventy-two hours have

1 expired for up to an additional fourteen days without further
2 automatic hearing for the reason that the person is a person whose
3 mental disorder presents a likelihood of serious harm or that the
4 person is gravely disabled;

5 (b) The person has a right to communicate immediately with an
6 attorney; has a right to have an attorney appointed to represent him
7 or her before and at the probable cause hearing if he or she is
8 indigent; and has the right to be told the name and address of the
9 attorney that the mental health professional has designated pursuant
10 to this chapter;

11 (c) The person has the right to remain silent and that any
12 statement he or she makes may be used against him or her;

13 (d) The person has the right to present evidence and to cross-
14 examine witnesses who testify against him or her at the probable
15 cause hearing; and

16 (e) The person has the right to refuse psychiatric medications,
17 including antipsychotic medication beginning twenty-four hours prior
18 to the probable cause hearing.

19 (6) When proceedings are initiated under RCW 71.05.153, no later
20 than twelve hours after such person is admitted to the evaluation and
21 treatment facility the personnel of the evaluation and treatment
22 facility or the designated mental health professional shall serve on
23 such person a copy of the petition for initial detention and the
24 name, business address, and phone number of the designated attorney
25 and shall forthwith commence service of a copy of the petition for
26 initial detention on the designated attorney.

27 (7) The judicial hearing described in subsection (5) of this
28 section is hereby authorized, and shall be held according to the
29 provisions of subsection (5) of this section and rules promulgated by
30 the supreme court.

31 (8) At the probable cause hearing the detained person shall have
32 the following rights in addition to the rights previously specified:

33 (a) To present evidence on his or her behalf;

34 (b) To cross-examine witnesses who testify against him or her;

35 (c) To be proceeded against by the rules of evidence;

36 (d) To remain silent;

37 (e) To view and copy all petitions and reports in the court file.

38 (9) Privileges between patients and physicians, physician
39 assistants, psychologists, or psychiatric advanced registered nurse
40 practitioners are deemed waived in proceedings under this chapter

1 relating to the administration of antipsychotic medications. As to
2 other proceedings under this chapter, the privileges shall be waived
3 when a court of competent jurisdiction in its discretion determines
4 that such waiver is necessary to protect either the detained person
5 or the public.

6 The waiver of a privilege under this section is limited to
7 records or testimony relevant to evaluation of the detained person
8 for purposes of a proceeding under this chapter. Upon motion by the
9 detained person or on its own motion, the court shall examine a
10 record or testimony sought by a petitioner to determine whether it is
11 within the scope of the waiver.

12 The record maker shall not be required to testify in order to
13 introduce medical or psychological records of the detained person so
14 long as the requirements of RCW 5.45.020 are met except that portions
15 of the record which contain opinions as to the detained person's
16 mental state must be deleted from such records unless the person
17 making such conclusions is available for cross-examination.

18 (10) Insofar as danger to the person or others is not created,
19 each person involuntarily detained, treated in a less restrictive
20 alternative course of treatment, or committed for treatment and
21 evaluation pursuant to this chapter shall have, in addition to other
22 rights not specifically withheld by law, the following rights:

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

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

28 (c) To have access to individual storage space for his or her
29 private use;

30 (d) To have visitors at reasonable times;

31 (e) To have reasonable access to a telephone, both to make and
32 receive confidential calls, consistent with an effective treatment
33 program;

34 (f) To have ready access to letter writing materials, including
35 stamps, and to send and receive uncensored correspondence through the
36 mails;

37 (g) To discuss treatment plans and decisions with professional
38 persons;

39 (h) Not to consent to the administration of antipsychotic
40 medications and not to thereafter be administered antipsychotic

1 medications unless ordered by a court under RCW 71.05.217 or pursuant
2 to an administrative hearing under RCW 71.05.215;

3 (i) Not to consent to the performance of electroconvulsant
4 therapy or surgery, except emergency lifesaving surgery, unless
5 ordered by a court under RCW 71.05.217;

6 (j) Not to have psychosurgery performed on him or her under any
7 circumstances;

8 (k) To dispose of property and sign contracts unless such person
9 has been adjudicated an incompetent in a court proceeding directed to
10 that particular issue.

11 (11) Every person involuntarily detained shall immediately be
12 informed of his or her right to a hearing to review the legality of
13 his or her detention and of his or her right to counsel, by the
14 professional person in charge of the facility providing evaluation
15 and treatment, or his or her designee, and, when appropriate, by the
16 court. If the person so elects, the court shall immediately appoint
17 an attorney to assist him or her.

18 (12) A person challenging his or her detention or his or her
19 attorney shall have the right to designate and have the court appoint
20 a reasonably available independent physician, physician assistant,
21 psychiatric advanced registered nurse practitioner, or licensed
22 mental health professional to examine the person detained, the
23 results of which examination may be used in the proceeding. The
24 person shall, if he or she is financially able, bear the cost of such
25 expert examination, otherwise such expert examination shall be at
26 public expense.

27 (13) Nothing contained in this chapter shall prohibit the patient
28 from petitioning by writ of habeas corpus for release.

29 (14) Nothing in this chapter shall prohibit a person committed on
30 or prior to January 1, 1974, from exercising a right available to him
31 or her at or prior to January 1, 1974, for obtaining release from
32 confinement.

33 (15) Nothing in this section permits any person to knowingly
34 violate a no-contact order or a condition of an active judgment and
35 sentence or an active condition of supervision by the department of
36 corrections.

37 **Sec. 9.** RCW 71.05.660 and 2013 c 200 s 21 are each amended to
38 read as follows:

1 Nothing in this chapter or chapter 70.02, 70.96A, 71.34, or
2 70.96B RCW shall be construed to interfere with communications
3 between physicians, physician assistants, psychiatric advanced
4 registered nurse practitioners, or psychologists and patients and
5 attorneys and clients.

6 **Sec. 10.** RCW 71.06.040 and 2009 c 217 s 10 are each amended to
7 read as follows:

8 At a preliminary hearing upon the charge of sexual psychopathy,
9 the court may require the testimony of two duly licensed physicians,
10 physician assistants, or psychiatric advanced registered nurse
11 practitioners who have examined the defendant. If the court finds
12 that there are reasonable grounds to believe the defendant is a
13 sexual psychopath, the court shall order said defendant confined at
14 the nearest state hospital for observation as to the existence of
15 sexual psychopathy. Such observation shall be for a period of not to
16 exceed ninety days. The defendant shall be detained in the county
17 jail or other county facilities pending execution of such observation
18 order by the department.

19 **Sec. 11.** RCW 71.12.540 and 2009 c 217 s 11 are each amended to
20 read as follows:

21 The authorities of each establishment as defined in this chapter
22 shall place on file in the office of the establishment the
23 recommendations made by the department of health as a result of such
24 visits, for the purpose of consultation by such authorities, and for
25 reference by the department representatives upon their visits. Every
26 such establishment shall keep records of every person admitted
27 thereto as follows and shall furnish to the department, when
28 required, the following data: Name, age, sex, marital status, date of
29 admission, voluntary or other commitment, name of physician,
30 physician assistant, or psychiatric advanced registered nurse
31 practitioner, diagnosis, and date of discharge.

32 **Sec. 12.** RCW 71.24.025 and 2014 c 225 s 10 are each reenacted
33 and amended to read as follows:

34 Unless the context clearly requires otherwise, the definitions in
35 this section apply throughout this chapter.

36 (1) "Acutely mentally ill" means a condition which is limited to
37 a short-term severe crisis episode of:

1 (a) A mental disorder as defined in RCW 71.05.020 or, in the case
2 of a child, as defined in RCW 71.34.020;

3 (b) Being gravely disabled as defined in RCW 71.05.020 or, in the
4 case of a child, a gravely disabled minor as defined in RCW
5 71.34.020; or

6 (c) Presenting a likelihood of serious harm as defined in RCW
7 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

8 (2) "Available resources" means funds appropriated for the
9 purpose of providing community mental health programs, federal funds,
10 except those provided according to Title XIX of the Social Security
11 Act, and state funds appropriated under this chapter or chapter 71.05
12 RCW by the legislature during any biennium for the purpose of
13 providing residential services, resource management services,
14 community support services, and other mental health services. This
15 does not include funds appropriated for the purpose of operating and
16 administering the state psychiatric hospitals.

17 (3) "Behavioral health organization" means any county authority
18 or group of county authorities or other entity recognized by the
19 secretary in contract in a defined region.

20 (4) "Behavioral health services" means mental health services as
21 described in this chapter and chapter 71.36 RCW and chemical
22 dependency treatment services as described in chapter 70.96A RCW.

23 (5) "Child" means a person under the age of eighteen years.

24 (6) "Chronically mentally ill adult" or "adult who is chronically
25 mentally ill" means an adult who has a mental disorder and meets at
26 least one of the following criteria:

27 (a) Has undergone two or more episodes of hospital care for a
28 mental disorder within the preceding two years; or

29 (b) Has experienced a continuous psychiatric hospitalization or
30 residential treatment exceeding six months' duration within the
31 preceding year; or

32 (c) Has been unable to engage in any substantial gainful activity
33 by reason of any mental disorder which has lasted for a continuous
34 period of not less than twelve months. "Substantial gainful activity"
35 shall be defined by the department by rule consistent with Public Law
36 92-603, as amended.

37 (7) "Clubhouse" means a community-based program that provides
38 rehabilitation services and is certified by the department of social
39 and health services.

1 (8) "Community mental health program" means all mental health
2 services, activities, or programs using available resources.

3 (9) "Community mental health service delivery system" means
4 public, private, or tribal agencies that provide services
5 specifically to persons with mental disorders as defined under RCW
6 71.05.020 and receive funding from public sources.

7 (10) "Community support services" means services authorized,
8 planned, and coordinated through resource management services
9 including, at a minimum, assessment, diagnosis, emergency crisis
10 intervention available twenty-four hours, seven days a week,
11 prescreening determinations for persons who are mentally ill being
12 considered for placement in nursing homes as required by federal law,
13 screening for patients being considered for admission to residential
14 services, diagnosis and treatment for children who are acutely
15 mentally ill or severely emotionally disturbed discovered under
16 screening through the federal Title XIX early and periodic screening,
17 diagnosis, and treatment program, investigation, legal, and other
18 nonresidential services under chapter 71.05 RCW, case management
19 services, psychiatric treatment including medication supervision,
20 counseling, psychotherapy, assuring transfer of relevant patient
21 information between service providers, recovery services, and other
22 services determined by behavioral health organizations.

23 (11) "Consensus-based" means a program or practice that has
24 general support among treatment providers and experts, based on
25 experience or professional literature, and may have anecdotal or case
26 study support, or that is agreed but not possible to perform studies
27 with random assignment and controlled groups.

28 (12) "County authority" means the board of county commissioners,
29 county council, or county executive having authority to establish a
30 community mental health program, or two or more of the county
31 authorities specified in this subsection which have entered into an
32 agreement to provide a community mental health program.

33 (13) "Department" means the department of social and health
34 services.

35 (14) "Designated mental health professional" means a mental
36 health professional designated by the county or other authority
37 authorized in rule to perform the duties specified in this chapter.

38 (15) "Emerging best practice" or "promising practice" means a
39 program or practice that, based on statistical analyses or a well
40 established theory of change, shows potential for meeting the

1 evidence-based or research-based criteria, which may include the use
2 of a program that is evidence-based for outcomes other than those
3 listed in subsection (16) of this section.

4 (16) "Evidence-based" means a program or practice that has been
5 tested in heterogeneous or intended populations with multiple
6 randomized, or statistically controlled evaluations, or both; or one
7 large multiple site randomized, or statistically controlled
8 evaluation, or both, where the weight of the evidence from a systemic
9 review demonstrates sustained improvements in at least one outcome.
10 "Evidence-based" also means a program or practice that can be
11 implemented with a set of procedures to allow successful replication
12 in Washington and, when possible, is determined to be cost-
13 beneficial.

14 (17) "Licensed service provider" means an entity licensed
15 according to this chapter or chapter 71.05 or 70.96A RCW or an entity
16 deemed to meet state minimum standards as a result of accreditation
17 by a recognized behavioral health accrediting body recognized and
18 having a current agreement with the department, or tribal attestation
19 that meets state minimum standards, or persons licensed under chapter
20 18.57, 18.57A, 18.71, 18.71A, 18.83, or 18.79 RCW, as it applies to
21 registered nurses and advanced registered nurse practitioners.

22 (18) "Long-term inpatient care" means inpatient services for
23 persons committed for, or voluntarily receiving intensive treatment
24 for, periods of ninety days or greater under chapter 71.05 RCW.
25 "Long-term inpatient care" as used in this chapter does not include:
26 (a) Services for individuals committed under chapter 71.05 RCW who
27 are receiving services pursuant to a conditional release or a court-
28 ordered less restrictive alternative to detention; or (b) services
29 for individuals voluntarily receiving less restrictive alternative
30 treatment on the grounds of the state hospital.

31 (19) "Mental health services" means all services provided by
32 behavioral health organizations and other services provided by the
33 state for persons who are mentally ill.

34 (20) "Mentally ill persons," "persons who are mentally ill," and
35 "the mentally ill" mean persons and conditions defined in subsections
36 (1), (6), (28), and (29) of this section.

37 (21) "Recovery" means the process in which people are able to
38 live, work, learn, and participate fully in their communities.

39 (22) "Registration records" include all the records of the
40 department, behavioral health organizations, treatment facilities,

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

4 (23) "Research-based" means a program or practice that has been
5 tested with a single randomized, or statistically controlled
6 evaluation, or both, demonstrating sustained desirable outcomes; or
7 where the weight of the evidence from a systemic review supports
8 sustained outcomes as described in subsection (16) of this section
9 but does not meet the full criteria for evidence-based.

10 (24) "Residential services" means a complete range of residences
11 and supports authorized by resource management services and which may
12 involve a facility, a distinct part thereof, or services which
13 support community living, for persons who are acutely mentally ill,
14 adults who are chronically mentally ill, children who are severely
15 emotionally disturbed, or adults who are seriously disturbed and
16 determined by the behavioral health organization to be at risk of
17 becoming acutely or chronically mentally ill. The services shall
18 include at least evaluation and treatment services as defined in
19 chapter 71.05 RCW, acute crisis respite care, long-term adaptive and
20 rehabilitative care, and supervised and supported living services,
21 and shall also include any residential services developed to service
22 persons who are mentally ill in nursing homes, assisted living
23 facilities, and adult family homes, and may include outpatient
24 services provided as an element in a package of services in a
25 supported housing model. Residential services for children in out-of-
26 home placements related to their mental disorder shall not include
27 the costs of food and shelter, except for children's long-term
28 residential facilities existing prior to January 1, 1991.

29 (25) "Resilience" means the personal and community qualities that
30 enable individuals to rebound from adversity, trauma, tragedy,
31 threats, or other stresses, and to live productive lives.

32 (26) "Resource management services" mean the planning,
33 coordination, and authorization of residential services and community
34 support services administered pursuant to an individual service plan
35 for: (a) Adults and children who are acutely mentally ill; (b) adults
36 who are chronically mentally ill; (c) children who are severely
37 emotionally disturbed; or (d) adults who are seriously disturbed and
38 determined solely by a behavioral health organization to be at risk
39 of becoming acutely or chronically mentally ill. Such planning,
40 coordination, and authorization shall include mental health screening

1 for children eligible under the federal Title XIX early and periodic
2 screening, diagnosis, and treatment program. Resource management
3 services include seven day a week, twenty-four hour a day
4 availability of information regarding enrollment of adults and
5 children who are mentally ill in services and their individual
6 service plan to designated mental health professionals, evaluation
7 and treatment facilities, and others as determined by the behavioral
8 health organization.

9 (27) "Secretary" means the secretary of social and health
10 services.

11 (28) "Seriously disturbed person" means a person who:

12 (a) Is gravely disabled or presents a likelihood of serious harm
13 to himself or herself or others, or to the property of others, as a
14 result of a mental disorder as defined in chapter 71.05 RCW;

15 (b) Has been on conditional release status, or under a less
16 restrictive alternative order, at some time during the preceding two
17 years from an evaluation and treatment facility or a state mental
18 health hospital;

19 (c) Has a mental disorder which causes major impairment in
20 several areas of daily living;

21 (d) Exhibits suicidal preoccupation or attempts; or

22 (e) Is a child diagnosed by a mental health professional, as
23 defined in chapter 71.34 RCW, as experiencing a mental disorder which
24 is clearly interfering with the child's functioning in family or
25 school or with peers or is clearly interfering with the child's
26 personality development and learning.

27 (29) "Severely emotionally disturbed child" or "child who is
28 severely emotionally disturbed" means a child who has been determined
29 by the behavioral health organization to be experiencing a mental
30 disorder as defined in chapter 71.34 RCW, including those mental
31 disorders that result in a behavioral or conduct disorder, that is
32 clearly interfering with the child's functioning in family or school
33 or with peers and who meets at least one of the following criteria:

34 (a) Has undergone inpatient treatment or placement outside of the
35 home related to a mental disorder within the last two years;

36 (b) Has undergone involuntary treatment under chapter 71.34 RCW
37 within the last two years;

38 (c) Is currently served by at least one of the following child-
39 serving systems: Juvenile justice, child-protection/welfare, special
40 education, or developmental disabilities;

1 (d) Is at risk of escalating maladjustment due to:

2 (i) Chronic family dysfunction involving a caretaker who is
3 mentally ill or inadequate;

4 (ii) Changes in custodial adult;

5 (iii) Going to, residing in, or returning from any placement
6 outside of the home, for example, psychiatric hospital, short-term
7 inpatient, residential treatment, group or foster home, or a
8 correctional facility;

9 (iv) Subject to repeated physical abuse or neglect;

10 (v) Drug or alcohol abuse; or

11 (vi) Homelessness.

12 (30) "State minimum standards" means minimum requirements
13 established by rules adopted by the secretary and necessary to
14 implement this chapter for: (a) Delivery of mental health services;
15 (b) licensed service providers for the provision of mental health
16 services; (c) residential services; and (d) community support
17 services and resource management services.

18 (31) "Treatment records" include registration and all other
19 records concerning persons who are receiving or who at any time have
20 received services for mental illness, which are maintained by the
21 department, by behavioral health organizations and their staffs, and
22 by treatment facilities. Treatment records do not include notes or
23 records maintained for personal use by a person providing treatment
24 services for the department, behavioral health organizations, or a
25 treatment facility if the notes or records are not available to
26 others.

27 (32) "Tribal authority," for the purposes of this section and RCW
28 71.24.300 only, means: The federally recognized Indian tribes and the
29 major Indian organizations recognized by the secretary insofar as
30 these organizations do not have a financial relationship with any
31 behavioral health organization that would present a conflict of
32 interest.

33 **Sec. 13.** RCW 71.32.110 and 2003 c 283 s 11 are each amended to
34 read as follows:

35 (1) For the purposes of this chapter, a principal, agent,
36 professional person, or health care provider may seek a determination
37 whether the principal is incapacitated or has regained capacity.

38 (2)(a) For the purposes of this chapter, no adult may be declared
39 an incapacitated person except by:

1 (i) A court, if the request is made by the principal or the
2 principal's agent;

3 (ii) One mental health professional and one health care provider;
4 or

5 (iii) Two health care providers.

6 (b) One of the persons making the determination under (a)(ii) or
7 (iii) of this subsection must be a psychiatrist, physician assistant,
8 psychologist, or a psychiatric advanced registered nurse
9 practitioner.

10 (3) When a professional person or health care provider requests a
11 capacity determination, he or she shall promptly inform the principal
12 that:

13 (a) A request for capacity determination has been made; and

14 (b) The principal may request that the determination be made by a
15 court.

16 (4) At least one mental health professional or health care
17 provider must personally examine the principal prior to making a
18 capacity determination.

19 (5)(a) When a court makes a determination whether a principal has
20 capacity, the court shall, at a minimum, be informed by the testimony
21 of one mental health professional familiar with the principal and
22 shall, except for good cause, give the principal an opportunity to
23 appear in court prior to the court making its determination.

24 (b) To the extent that local court rules permit, any party or
25 witness may testify telephonically.

26 (6) When a court has made a determination regarding a principal's
27 capacity and there is a subsequent change in the principal's
28 condition, subsequent determinations whether the principal is
29 incapacitated may be made in accordance with any of the provisions of
30 subsection (2) of this section.

31 **Sec. 14.** RCW 71.32.140 and 2009 c 217 s 12 are each amended to
32 read as follows:

33 (1) A principal who:

34 (a) Chose not to be able to revoke his or her directive during
35 any period of incapacity;

36 (b) Consented to voluntary admission to inpatient mental health
37 treatment, or authorized an agent to consent on the principal's
38 behalf; and

1 (c) At the time of admission to inpatient treatment, refuses to
2 be admitted,
3 may only be admitted into inpatient mental health treatment under
4 subsection (2) of this section.

5 (2) A principal may only be admitted to inpatient mental health
6 treatment under his or her directive if, prior to admission, a member
7 of the treating facility's professional staff who is a physician,
8 physician assistant, or psychiatric advanced registered nurse
9 practitioner:

10 (a) Evaluates the principal's mental condition, including a
11 review of reasonably available psychiatric and psychological history,
12 diagnosis, and treatment needs, and determines, in conjunction with
13 another health care provider or mental health professional, that the
14 principal is incapacitated;

15 (b) Obtains the informed consent of the agent, if any, designated
16 in the directive;

17 (c) Makes a written determination that the principal needs an
18 inpatient evaluation or is in need of inpatient treatment and that
19 the evaluation or treatment cannot be accomplished in a less
20 restrictive setting; and

21 (d) Documents in the principal's medical record a summary of the
22 physician's, physician assistant's, or psychiatric advanced
23 registered nurse practitioner's findings and recommendations for
24 treatment or evaluation.

25 (3) In the event the admitting physician is not a psychiatrist,
26 the admitting physician assistant is not supervised by a
27 psychiatrist, or the advanced registered nurse practitioner is not a
28 psychiatric advanced registered nurse practitioner, the principal
29 shall receive a complete psychological assessment by a mental health
30 professional within twenty-four hours of admission to determine the
31 continued need for inpatient evaluation or treatment.

32 (4)(a) If it is determined that the principal has capacity, then
33 the principal may only be admitted to, or remain in, inpatient
34 treatment if he or she consents at the time or is detained under the
35 involuntary treatment provisions of chapter 70.96A, 71.05, or 71.34
36 RCW.

37 (b) If a principal who is determined by two health care providers
38 or one mental health professional and one health care provider to be
39 incapacitated continues to refuse inpatient treatment, the principal
40 may immediately seek injunctive relief for release from the facility.

1 (5) If, at the end of the period of time that the principal or
2 the principal's agent, if any, has consented to voluntary inpatient
3 treatment, but no more than fourteen days after admission, the
4 principal has not regained capacity or has regained capacity but
5 refuses to consent to remain for additional treatment, the principal
6 must be released during reasonable daylight hours, unless detained
7 under chapter 70.96A, 71.05, or 71.34 RCW.

8 (6)(a) Except as provided in (b) of this subsection, any
9 principal who is voluntarily admitted to inpatient mental health
10 treatment under this chapter shall have all the rights provided to
11 individuals who are voluntarily admitted to inpatient treatment under
12 chapter 71.05, 71.34, or 72.23 RCW.

13 (b) Notwithstanding RCW 71.05.050 regarding consent to inpatient
14 treatment for a specified length of time, the choices an
15 incapacitated principal expressed in his or her directive shall
16 control, provided, however, that a principal who takes action
17 demonstrating a desire to be discharged, in addition to making
18 statements requesting to be discharged, shall be discharged, and no
19 principal shall be restrained in any way in order to prevent his or
20 her discharge. Nothing in this subsection shall be construed to
21 prevent detention and evaluation for civil commitment under chapter
22 71.05 RCW.

23 (7) Consent to inpatient admission in a directive is effective
24 only while the professional person, health care provider, and health
25 care facility are in substantial compliance with the material
26 provisions of the directive related to inpatient treatment.

27 **Sec. 15.** RCW 71.32.250 and 2009 c 217 s 13 are each amended to
28 read as follows:

29 (1) If a principal who is a resident of a long-term care facility
30 is admitted to inpatient mental health treatment pursuant to his or
31 her directive, the principal shall be allowed to be readmitted to the
32 same long-term care facility as if his or her inpatient admission had
33 been for a physical condition on the same basis that the principal
34 would be readmitted under state or federal statute or rule when:

35 (a) The treating facility's professional staff determine that
36 inpatient mental health treatment is no longer medically necessary
37 for the resident. The determination shall be made in writing by a
38 psychiatrist, physician assistant, psychiatric advanced registered
39 nurse practitioner, or a mental health professional and either (i) a

1 physician ((~~or~~)); (ii) a physician assistant; or (iii) psychiatric
2 advanced registered nurse practitioner; or

3 (b) The person's consent to admission in his or her directive has
4 expired.

5 (2)(a) If the long-term care facility does not have a bed
6 available at the time of discharge, the treating facility may
7 discharge the resident, in consultation with the resident and agent
8 if any, and in accordance with a medically appropriate discharge
9 plan, to another long-term care facility.

10 (b) This section shall apply to inpatient mental health treatment
11 admission of long-term care facility residents, regardless of whether
12 the admission is directly from a facility, hospital emergency room,
13 or other location.

14 (c) This section does not restrict the right of the resident to
15 an earlier release from the inpatient treatment facility. This
16 section does not restrict the right of a long-term care facility to
17 initiate transfer or discharge of a resident who is readmitted
18 pursuant to this section, provided that the facility has complied
19 with the laws governing the transfer or discharge of a resident.

20 (3) The joint legislative audit and review committee shall
21 conduct an evaluation of the operation and impact of this section.
22 The committee shall report its findings to the appropriate committees
23 of the legislature by December 1, 2004.

24 **Sec. 16.** RCW 71.32.260 and 2009 c 217 s 14 are each amended to
25 read as follows:

26 The directive shall be in substantially the following form:

27 **Mental Health Advance Directive**

28 **NOTICE TO PERSONS**

29 **CREATING A MENTAL HEALTH ADVANCE DIRECTIVE**

30 This is an important legal document. It creates an advance directive for mental health treatment. Before signing this
31 document you should know these important facts:

32 (1) This document is called an advance directive and allows you to make decisions in advance about your mental health
33 treatment, including medications, short-term admission to inpatient treatment and electroconvulsive therapy.

34 **YOU DO NOT HAVE TO FILL OUT OR SIGN THIS FORM.**

35 **IF YOU DO NOT SIGN THIS FORM, IT WILL NOT TAKE EFFECT.**

36 If you choose to complete and sign this document, you may still decide to leave some items blank.

- 1 (2) You have the right to appoint a person as your agent to make treatment decisions for you. You must notify your agent
2 that you have appointed him or her as an agent. The person you appoint has a duty to act consistently with your wishes
3 made known by you. If your agent does not know what your wishes are, he or she has a duty to act in your best
4 interest. Your agent has the right to withdraw from the appointment at any time.
- 5 (3) The instructions you include with this advance directive and the authority you give your agent to act will only become
6 effective under the conditions you select in this document. You may choose to limit this directive and your agent's
7 authority to times when you are incapacitated or to times when you are exhibiting symptoms or behavior that you
8 specify. You may also make this directive effective immediately. No matter when you choose to make this directive
9 effective, your treatment providers must still seek your informed consent at all times that you have capacity to give
10 informed consent.
- 11 (4) You have the right to revoke this document in writing at any time you have capacity.
- 12 **YOU MAY NOT REVOKE THIS DIRECTIVE WHEN YOU HAVE BEEN FOUND TO BE**
13 **INCAPACITATED UNLESS YOU HAVE SPECIFICALLY STATED IN THIS DIRECTIVE THAT**
14 **YOU WANT IT TO BE REVOCABLE WHEN YOU ARE INCAPACITATED.**
- 15 (5) This directive will stay in effect until you revoke it unless you specify an expiration date. If you specify an expiration
16 date and you are incapacitated at the time it expires, it will remain in effect until you have capacity to make treatment
17 decisions again unless you chose to be able to revoke it while you are incapacitated and you revoke the directive.
- 18 (6) You cannot use your advance directive to consent to civil commitment. The procedures that apply to your advance
19 directive are different than those provided for in the Involuntary Treatment Act. Involuntary treatment is a different
20 process.
- 21 (7) If there is anything in this directive that you do not understand, you should ask a lawyer to explain it to you.
- 22 (8) You should be aware that there are some circumstances where your provider may not have to follow your directive.
- 23 (9) You should discuss any treatment decisions in your directive with your provider.
- 24 (10) You may ask the court to rule on the validity of your directive.

25 **PART I.**
26 **STATEMENT OF INTENT TO CREATE A**
27 **MENTAL HEALTH ADVANCE DIRECTIVE**

28 I, being a person with capacity, willfully and voluntarily execute this mental health advance directive so
29 that my choices regarding my mental health care will be carried out in circumstances when I am unable to express my
30 instructions and preferences regarding my mental health care. If a guardian is appointed by a court to make mental health
31 decisions for me, I intend this document to take precedence over all other means of ascertaining my intent.

32 The fact that I may have left blanks in this directive does not affect its validity in any way. I intend that all completed
33 sections be followed. If I have not expressed a choice, my agent should make the decision that he or she determines is in
34 my best interest. I intend this directive to take precedence over any other directives I have previously executed, to the
35 extent that they are inconsistent with this document, or unless I expressly state otherwise in either document.

1 I understand that I may revoke this directive in whole or in part if I am a person with capacity. I understand that I
2 cannot revoke this directive if a court, two health care providers, or one mental health professional and one health care
3 provider find that I am an incapacitated person, unless, when I executed this directive, I chose to be able to revoke this
4 directive while incapacitated.

5 I understand that, except as otherwise provided in law, revocation must be in writing. I understand that nothing in this
6 directive, or in my refusal of treatment to which I consent in this directive, authorizes any health care provider, professional
7 person, health care facility, or agent appointed in this directive to use or threaten to use abuse, neglect, financial
8 exploitation, or abandonment to carry out my directive.

9 I understand that there are some circumstances where my provider may not have to follow my directive.

10 **PART II.**
11 **WHEN THIS DIRECTIVE IS EFFECTIVE**

12 *YOU MUST COMPLETE THIS PART FOR YOUR DIRECTIVE TO BE VALID.*

13 I intend that this directive become effective (*YOU MUST CHOOSE ONLY ONE*):

14 Immediately upon my signing of this directive.

15 If I become incapacitated.

16 When the following circumstances, symptoms, or behaviors occur:
17
18

19 **PART III.**
20 **DURATION OF THIS DIRECTIVE**

21 *YOU MUST COMPLETE THIS PART FOR YOUR DIRECTIVE TO BE VALID.*

22 I want this directive to (*YOU MUST CHOOSE ONLY ONE*):

23 Remain valid and in effect for an indefinite period of time.

24 Automatically expire years from the date it was created.

25 **PART IV.**
26 **WHEN I MAY REVOKE THIS DIRECTIVE**

27 *YOU MUST COMPLETE THIS PART FOR THIS DIRECTIVE TO BE VALID.*

28 I intend that I be able to revoke this directive (*YOU MUST CHOOSE ONLY ONE*):

29 Only when I have capacity.

30 I understand that choosing this option means I may only revoke this directive if I have capacity. I further understand
31 that if I choose this option and become incapacitated while this directive is in effect, I may receive treatment that I
32 specify in this directive, even if I object at the time.

1 Even if I am incapacitated.

2 I understand that choosing this option means that I may revoke this directive even if I am incapacitated. I further
3 understand that if I choose this option and revoke this directive while I am incapacitated I may not receive
4 treatment that I specify in this directive, even if I want the treatment.

5 **PART V.**

6 **PREFERENCES AND INSTRUCTIONS ABOUT TREATMENT, FACILITIES, AND PHYSICIANS OR**
7 **PSYCHIATRIC ADVANCED REGISTERED NURSE PRACTITIONERS**

8 **A. Preferences and Instructions About Physician(s), Physician Assistant(s), or Psychiatric Advanced Registered**
9 **Nurse Practitioner(s) to be Involved in My Treatment**

10 I would like the physician(s), physician assistant(s), or psychiatric advanced registered nurse practitioner(s) named below
11 to be involved in my treatment decisions:

12 Dr., PA-C, or PARNP Contact information:
13 Dr., PA-C, or PARNP Contact information:

14 I do not wish to be treated by Dr. or PARNP.

15 **B. Preferences and Instructions About Other Providers**

16 I am receiving other treatment or care from providers who I feel have an impact on my mental health care. I would like the
17 following treatment provider(s) to be contacted when this directive is effective:

18 Name Profession Contact information.
19 Name Profession Contact information.

20 **C. Preferences and Instructions About Medications for Psychiatric Treatment** (*initial and complete all that apply*)

21 I consent, and authorize my agent (if appointed) to consent, to the following
22 medications:

23 I do not consent, and I do not authorize my agent (if appointed) to consent, to the administration of the following
24 medications:

25 I am willing to take the medications excluded above if my only reason for excluding them is the side effects which
26 include.
27 and these side effects can be eliminated by dosage adjustment or other means

28 I am willing to try any other medication the hospital doctor, physician assistant, or psychiatric advanced registered
29 nurse practitioner recommends

30 I am willing to try any other medications my outpatient doctor, physician assistant, or psychiatric advanced
31 registered nurse practitioner recommends

32 I do not want to try any other medications.

33 **Medication Allergies**

34 I have allergies to, or severe side effects from, the following:
35

1 **Other Medication Preferences or Instructions**

2 I have the following other preferences or instructions about medications.
3

4 **D. Preferences and Instructions About Hospitalization and Alternatives**

5 *(initial all that apply and, if desired, rank "1" for first choice, "2" for second choice, and so on)*

6 In the event my psychiatric condition is serious enough to require 24-hour care and I have no physical conditions
7 that require immediate access to emergency medical care, I prefer to receive this care in programs/facilities designed as
8 alternatives to psychiatric hospitalizations.

9 I would also like the interventions below to be tried before hospitalization is considered:

10 Calling someone or having someone call me when needed.

11 Name: Telephone:

12 Staying overnight with someone

13 Name: Telephone:

14 Having a mental health service provider come to see me

15 Going to a crisis triage center or emergency room

16 Staying overnight at a crisis respite (temporary) bed

17 Seeing a service provider for help with psychiatric medications

18 Other, specify:

19 **Authority to Consent to Inpatient Treatment**

20 I consent, and authorize my agent (if appointed) to consent, to voluntary admission to inpatient mental health treatment
21 for days *(not to exceed 14 days)*

22 (Sign one):

23 If deemed appropriate by my agent (if appointed) and treating physician, physician assistant, or psychiatric
24 advanced registered nurse practitioner

25

26 (Signature)

27 or

28 Under the following circumstances (specify symptoms, behaviors, or circumstances that indicate the need for
29 hospitalization)

30

31 (Signature)

32 I do **not** consent, or authorize my agent (if appointed) to consent, to inpatient treatment

33

34 (Signature)

Hospital Preferences and Instructions

If hospitalization is required, I prefer the following hospitals:

I do not consent to be admitted to the following hospitals:

E. Preferences and Instructions About Preemergency

I would like the interventions below to be tried before use of seclusion or restraint is considered

(initial all that apply):

..... "Talk me down" one-on-one

..... More medication

..... Time out/privacy

..... Show of authority/force

..... Shift my attention to something else

..... Set firm limits on my behavior

..... Help me to discuss/vent feelings

..... Decrease stimulation

..... Offer to have neutral person settle dispute

..... Other, specify

F. Preferences and Instructions About Seclusion, Restraint, and Emergency Medications

If it is determined that I am engaging in behavior that requires seclusion, physical restraint, and/or emergency use of medication, I prefer these interventions in the order I have chosen (choose "1" for first choice, "2" for second choice, and so on):

..... Seclusion

..... Seclusion and physical restraint (combined)

..... Medication by injection

..... Medication in pill or liquid form

In the event that my attending physician, physician assistant, or psychiatric advanced registered nurse practitioner decides to use medication in response to an emergency situation after due consideration of my preferences and instructions for emergency treatments stated above, I expect the choice of medication to reflect any preferences and instructions I have expressed in Part III C of this form. The preferences and instructions I express in this section regarding medication in emergency situations do not constitute consent to use of the medication for nonemergency treatment.

G. Preferences and Instructions About Electroconvulsive Therapy (ECT or Shock Therapy)

My wishes regarding electroconvulsive therapy are (sign one):

..... I do not consent, nor authorize my agent (if appointed) to consent, to the administration of electroconvulsive therapy

1
2 (Signature)
3 I consent, and authorize my agent (if appointed) to consent, to the administration of electroconvulsive therapy
4
5 (Signature)
6 I consent, and authorize my agent (if appointed) to consent, to the administration of electroconvulsive therapy, but
7 only under the following conditions:
8
9
10 (Signature)

11 **H. Preferences and Instructions About Who is Permitted to Visit**

12 If I have been admitted to a mental health treatment facility, the following people are not permitted to visit me there:
13 Name:
14 Name:
15 Name:

16 I understand that persons not listed above may be permitted to visit me.

17 **I. Additional Instructions About My Mental Health Care**

18 Other instructions about my mental health care:
19

20 In case of emergency, please contact:

21 Name: Address:
22 Work telephone: Home telephone:
23 Physician, Physician Assistant, or Psychiatric Address:
24 Advanced Registered Nurse Practitioner:
25 Telephone:

26 The following may help me to avoid a hospitalization:
27

28 I generally react to being hospitalized as follows:
29

30 Staff of the hospital or crisis unit can help me by doing the following:
31
32

33 **J. Refusal of Treatment**

1 I do not consent to any mental health treatment.

2
3 (Signature)

4 **PART VI.**
5 **DURABLE POWER OF ATTORNEY (APPOINTMENT OF MY AGENT)**

6 *(Fill out this part only if you wish to appoint an agent or nominate a guardian.)*

7 I authorize an agent to make mental health treatment decisions on my behalf. The authority granted to my agent
8 includes the right to consent, refuse consent, or withdraw consent to any mental health care, treatment, service, or
9 procedure, consistent with any instructions and/or limitations I have set forth in this directive. I intend that those decisions
10 should be made in accordance with my expressed wishes as set forth in this document. If I have not expressed a choice in
11 this document **and my agent does not otherwise know my wishes**, I authorize my agent to make the decision that my
12 agent determines is in my best interest. This agency shall not be affected by my incapacity. Unless I state otherwise in this
13 durable power of attorney, I may revoke it unless prohibited by other state law.

14 **A. Designation of an Agent**

15 I appoint the following person as my agent to make mental health treatment decisions for me as authorized in this
16 document and request that this person be notified immediately when this directive becomes effective:

17 Name: Address:
18 Work telephone: Home telephone:
19 Relationship:

20 **B. Designation of Alternate Agent**

21 If the person named above is unavailable, unable, or refuses to serve as my agent, or I revoke that person's authority to
22 serve as my agent, I hereby appoint the following person as my alternate agent and request that this person be notified
23 immediately when this directive becomes effective or when my original agent is no longer my agent:

24 Name: Address:
25 Work telephone: Home telephone:
26 Relationship:

27 **C. When My Spouse is My Agent** *(initial if desired)*

28 If my spouse is my agent, that person shall remain my agent even if we become legally separated or our marriage is
29 dissolved, unless there is a court order to the contrary or I have remarried.

30 **D. Limitations on My Agent's Authority**

31 I do not grant my agent the authority to consent on my behalf to the following:

32
33

34 **E. Limitations on My Ability to Revoke this Durable Power of Attorney**

1 I choose to limit my ability to revoke this durable power of attorney as follows:

2
3

4 **F. Preference as to Court-Appointed Guardian**

5 In the event a court appoints a guardian who will make decisions regarding my mental health treatment, I **nominate** the
6 following person **as my guardian**:

7 Name: Address:

8 Work telephone: Home telephone:

9 Relationship:

10 The appointment of a guardian of my estate or my person or any other decision maker shall not give the guardian or
11 decision maker the power to revoke, suspend, or terminate this directive or the powers of my agent, except as authorized by
12 law.

13

14 (Signature required if nomination is made)

15 **PART VII.**
16 **OTHER DOCUMENTS**

17 *(Initial all that apply)*

18 I have executed the following documents that include the power to make decisions regarding health care services for
19 myself:

20 Health care power of attorney (chapter 11.94 RCW)

21 "Living will" (Health care directive; chapter 70.122 RCW)

22 I have appointed more than one agent. I understand that the most recently appointed agent controls except as stated
23 below:

24

25 **PART VIII.**
26 **NOTIFICATION OF OTHERS AND CARE OF PERSONAL AFFAIRS**

27 *(Fill out this part only if you wish to provide nontreatment instructions.)*

28 I understand the preferences and instructions in this part are **NOT** the responsibility of my treatment provider and that no
29 treatment provider is required to act on them.

30 **A. Who Should Be Notified**

31 I desire my agent to notify the following individuals as soon as possible when this directive becomes effective:

32 Name: Address:

33 Day telephone: Evening telephone:

34 Name: Address:

1 Day telephone: Evening telephone:

2 **B. Preferences or Instructions About Personal Affairs**

3 I have the following preferences or instructions about my personal affairs (e.g., care of dependents, pets, household) if I am
4 admitted to a mental health treatment facility:

5
6

7 **C. Additional Preferences and Instructions:**

8
9
10
11

12 **PART IX.**
13 **SIGNATURE**

14 By signing here, I indicate that I understand the purpose and effect of this document and that I am giving my informed
15 consent to the treatments and/or admission to which I have consented or authorized my agent to consent in this directive. I
16 intend that my consent in this directive be construed as being consistent with the elements of informed consent under
17 chapter 7.70 RCW.

18 Signature: Date:

19 Printed Name:

20 This directive was signed and declared by the "Principal," to be his or her directive, in our presence who, at his or her
21 request, have signed our names below as witnesses. We declare that, at the time of the creation of this instrument, the
22 Principal is personally known to us, and, according to our best knowledge and belief, has capacity at this time and does not
23 appear to be acting under duress, undue influence, or fraud. We further declare that none of us is:

- 24 (A) A person designated to make medical decisions on the principal's behalf;
- 25 (B) A health care provider or professional person directly involved with the provision of care to the principal at the
26 time the directive is executed;
- 27 (C) An owner, operator, employee, or relative of an owner or operator of a health care facility or long-term care facility
28 in which the principal is a patient or resident;
- 29 (D) A person who is related by blood, marriage, or adoption to the person, or with whom the principal has a dating
30 relationship as defined in RCW 26.50.010;
- 31 (E) An incapacitated person;
- 32 (F) A person who would benefit financially if the principal undergoes mental health treatment; or
- 33 (G) A minor.

34 Witness 1: Signature: Date:

1 Printed Name:
2 Telephone: Address:
3 Witness 2: Signature: Date:
4 Printed Name:
5 Telephone: Address:

6 **PART X.**
7 **RECORD OF DIRECTIVE**

8 I have given a copy of this directive to the following persons:
9

10 DO NOT FILL OUT PART XI UNLESS YOU INTEND TO REVOKE
11 THIS DIRECTIVE IN PART OR IN WHOLE

12 **PART XI.**
13 **REVOCAION OF THIS DIRECTIVE**

14 *(Initial any that apply):*
15 I am revoking the following part(s) of this directive (specify):
16
17 I am revoking all of this directive.

18 By signing here, I indicate that I understand the purpose and effect of my revocation and that no person is bound by any
19 revoked provision(s). I intend this revocation to be interpreted as if I had never completed the revoked provision(s).

20 Signature: Date:
21 Printed Name:

22 **DO NOT SIGN THIS PART UNLESS YOU INTEND TO REVOKE THIS**
23 **DIRECTIVE IN PART OR IN WHOLE**

24 **Sec. 17.** RCW 71.34.020 and 2011 c 89 s 16 are each amended to
25 read as follows:

26 Unless the context clearly requires otherwise, the definitions in
27 this section apply throughout this chapter.

28 (1) "Child psychiatrist" means a person having a license as a
29 physician and surgeon in this state, who has had graduate training in
30 child psychiatry in a program approved by the American Medical
31 Association or the American Osteopathic Association, and who is board
32 eligible or board certified in child psychiatry.

33 (2) "Children's mental health specialist" means:

1 (a) A mental health professional who has completed a minimum of
2 one hundred actual hours, not quarter or semester hours, of
3 specialized training devoted to the study of child development and
4 the treatment of children; and

5 (b) A mental health professional who has the equivalent of one
6 year of full-time experience in the treatment of children under the
7 supervision of a children's mental health specialist.

8 (3) "Commitment" means a determination by a judge or court
9 commissioner, made after a commitment hearing, that the minor is in
10 need of inpatient diagnosis, evaluation, or treatment or that the
11 minor is in need of less restrictive alternative treatment.

12 (4) "Department" means the department of social and health
13 services.

14 (5) "Designated mental health professional" means a mental health
15 professional designated by one or more counties to perform the
16 functions of a designated mental health professional described in
17 this chapter.

18 (6) "Evaluation and treatment facility" means a public or private
19 facility or unit that is certified by the department to provide
20 emergency, inpatient, residential, or outpatient mental health
21 evaluation and treatment services for minors. A physically separate
22 and separately-operated portion of a state hospital may be designated
23 as an evaluation and treatment facility for minors. A facility which
24 is part of or operated by the department or federal agency does not
25 require certification. No correctional institution or facility,
26 juvenile court detention facility, or jail may be an evaluation and
27 treatment facility within the meaning of this chapter.

28 (7) "Evaluation and treatment program" means the total system of
29 services and facilities coordinated and approved by a county or
30 combination of counties for the evaluation and treatment of minors
31 under this chapter.

32 (8) "Gravely disabled minor" means a minor who, as a result of a
33 mental disorder, is in danger of serious physical harm resulting from
34 a failure to provide for his or her essential human needs of health
35 or safety, or manifests severe deterioration in routine functioning
36 evidenced by repeated and escalating loss of cognitive or volitional
37 control over his or her actions and is not receiving such care as is
38 essential for his or her health or safety.

39 (9) "Inpatient treatment" means twenty-four-hour-per-day mental
40 health care provided within a general hospital, psychiatric hospital,

1 or residential treatment facility certified by the department as an
2 evaluation and treatment facility for minors.

3 (10) "Less restrictive alternative" or "less restrictive setting"
4 means outpatient treatment provided to a minor who is not residing in
5 a facility providing inpatient treatment as defined in this chapter.

6 (11) "Likelihood of serious harm" means either: (a) A substantial
7 risk that physical harm will be inflicted by an individual upon his
8 or her own person, as evidenced by threats or attempts to commit
9 suicide or inflict physical harm on oneself; (b) a substantial risk
10 that physical harm will be inflicted by an individual upon another,
11 as evidenced by behavior which has caused such harm or which places
12 another person or persons in reasonable fear of sustaining such harm;
13 or (c) a substantial risk that physical harm will be inflicted by an
14 individual upon the property of others, as evidenced by behavior
15 which has caused substantial loss or damage to the property of
16 others.

17 (12) "Medical necessity" for inpatient care means a requested
18 service which is reasonably calculated to: (a) Diagnose, correct,
19 cure, or alleviate a mental disorder; or (b) prevent the worsening of
20 mental conditions that endanger life or cause suffering and pain, or
21 result in illness or infirmity or threaten to cause or aggravate a
22 handicap, or cause physical deformity or malfunction, and there is no
23 adequate less restrictive alternative available.

24 (13) "Mental disorder" means any organic, mental, or emotional
25 impairment that has substantial adverse effects on an individual's
26 cognitive or volitional functions. The presence of alcohol abuse,
27 drug abuse, juvenile criminal history, antisocial behavior, or
28 intellectual disabilities alone is insufficient to justify a finding
29 of "mental disorder" within the meaning of this section.

30 (14) "Mental health professional" means a psychiatrist, physician
31 assistant, psychologist, psychiatric nurse, or social worker, and
32 such other mental health professionals as may be defined by rules
33 adopted by the secretary under this chapter.

34 (15) "Minor" means any person under the age of eighteen years.

35 (16) "Outpatient treatment" means any of the nonresidential
36 services mandated under chapter 71.24 RCW and provided by licensed
37 services providers as identified by RCW 71.24.025.

38 (17) "Parent" means:

1 (a) A biological or adoptive parent who has legal custody of the
2 child, including either parent if custody is shared under a joint
3 custody agreement; or

4 (b) A person or agency judicially appointed as legal guardian or
5 custodian of the child.

6 (18) "Professional person in charge" or "professional person"
7 means a physician or other mental health professional empowered by an
8 evaluation and treatment facility with authority to make admission
9 and discharge decisions on behalf of that facility.

10 (19) "Psychiatric nurse" means a registered nurse who has a
11 bachelor's degree from an accredited college or university, and who
12 has had, in addition, at least two years' experience in the direct
13 treatment of persons who have a mental illness or who are emotionally
14 disturbed, such experience gained under the supervision of a mental
15 health professional. "Psychiatric nurse" shall also mean any other
16 registered nurse who has three years of such experience.

17 (20) "Psychiatrist" means a person having a license as a
18 physician in this state who has completed residency training in
19 psychiatry in a program approved by the American Medical Association
20 or the American Osteopathic Association, and is board eligible or
21 board certified in psychiatry.

22 (21) "Psychologist" means a person licensed as a psychologist
23 under chapter 18.83 RCW.

24 (22) "Responsible other" means the minor, the minor's parent or
25 estate, or any other person legally responsible for support of the
26 minor.

27 (23) "Secretary" means the secretary of the department or
28 secretary's designee.

29 (24) "Social worker" means a person with a master's or further
30 advanced degree from a social work educational program accredited and
31 approved as provided in RCW 18.320.010.

32 (25) "Start of initial detention" means the time of arrival of
33 the minor at the first evaluation and treatment facility offering
34 inpatient treatment if the minor is being involuntarily detained at
35 the time. With regard to voluntary patients, "start of initial
36 detention" means the time at which the minor gives notice of intent
37 to leave under the provisions of this chapter.

38 (26) "Physician assistant" means a person licensed as a physician
39 assistant under chapter 18.57A or 18.71A RCW.

1 **Sec. 18.** RCW 71.34.355 and 2009 c 217 s 15 are each amended to
2 read as follows:

3 Absent a risk to self or others, minors treated under this
4 chapter have the following rights, which shall be prominently posted
5 in the evaluation and treatment facility:

6 (1) To wear their own clothes and to keep and use personal
7 possessions;

8 (2) To keep and be allowed to spend a reasonable sum of their own
9 money for canteen expenses and small purchases;

10 (3) To have individual storage space for private use;

11 (4) To have visitors at reasonable times;

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

14 (6) To have ready access to letter-writing materials, including
15 stamps, and to send and receive uncensored correspondence through the
16 mails;

17 (7) To discuss treatment plans and decisions with mental health
18 professionals;

19 (8) To have the right to adequate care and individualized
20 treatment;

21 (9) Not to consent to the performance of electro-convulsive
22 treatment or surgery, except emergency lifesaving surgery, upon him
23 or her, and not to have electro-convulsive treatment or nonemergency
24 surgery in such circumstance unless ordered by a court pursuant to a
25 judicial hearing in which the minor is present and represented by
26 counsel, and the court shall appoint a psychiatrist, physician
27 assistant, psychologist, psychiatric advanced registered nurse
28 practitioner, or physician designated by the minor or the minor's
29 counsel to testify on behalf of the minor. The minor's parent may
30 exercise this right on the minor's behalf, and must be informed of
31 any impending treatment;

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

34 **Sec. 19.** RCW 71.34.720 and 2009 c 217 s 16 are each amended to
35 read as follows:

36 (1) Each minor approved by the facility for inpatient admission
37 shall be examined and evaluated by a children's mental health
38 specialist as to the child's mental condition and by a physician,
39 physician assistant, or psychiatric advanced registered nurse

1 practitioner as to the child's physical condition within twenty-four
2 hours of admission. Reasonable measures shall be taken to ensure
3 medical treatment is provided for any condition requiring immediate
4 medical attention.

5 (2) If, after examination and evaluation, the children's mental
6 health specialist and the physician, physician assistant, or
7 psychiatric advanced registered nurse practitioner determine that the
8 initial needs of the minor would be better served by placement in a
9 chemical dependency treatment facility, then the minor shall be
10 referred to an approved treatment program defined under RCW
11 70.96A.020.

12 (3) The admitting facility shall take reasonable steps to notify
13 immediately the minor's parent of the admission.

14 (4) During the initial seventy-two hour treatment period, the
15 minor has a right to associate or receive communications from parents
16 or others unless the professional person in charge determines that
17 such communication would be seriously detrimental to the minor's
18 condition or treatment and so indicates in the minor's clinical
19 record, and notifies the minor's parents of this determination. In no
20 event may the minor be denied the opportunity to consult an attorney.

21 (5) If the evaluation and treatment facility admits the minor, it
22 may detain the minor for evaluation and treatment for a period not to
23 exceed seventy-two hours from the time of provisional acceptance. The
24 computation of such seventy-two hour period shall exclude Saturdays,
25 Sundays, and holidays. This initial treatment period shall not exceed
26 seventy-two hours except when an application for voluntary inpatient
27 treatment is received or a petition for fourteen-day commitment is
28 filed.

29 (6) Within twelve hours of the admission, the facility shall
30 advise the minor of his or her rights as set forth in this chapter.

31 **Sec. 20.** RCW 71.34.730 and 2009 c 293 s 6 and 2009 c 217 s 17
32 are each amended to read as follows:

33 (1) The professional person in charge of an evaluation and
34 treatment facility where a minor has been admitted involuntarily for
35 the initial seventy-two hour treatment period under this chapter may
36 petition to have a minor committed to an evaluation and treatment
37 facility for fourteen-day diagnosis, evaluation, and treatment.

38 If the professional person in charge of the treatment and
39 evaluation facility does not petition to have the minor committed,

1 the parent who has custody of the minor may seek review of that
2 decision in court. The parent shall file notice with the court and
3 provide a copy of the treatment and evaluation facility's report.

4 (2) A petition for commitment of a minor under this section shall
5 be filed with the superior court in the county where the minor is
6 residing or being detained.

7 (a) A petition for a fourteen-day commitment shall be signed by:
8 (i) Two physicians((τ)); (ii) two psychiatric advanced registered
9 nurse practitioners((τ)); (iii) two physician assistants; (iv) a
10 mental health professional and one of either a physician, physician
11 assistant, or a psychiatric advanced registered nurse
12 practitioner((τ)); or ((iv)) (v) a physician and physician
13 assistant; (vi) a physician assistant and a psychiatric advanced
14 registered nurse practitioner; or (vii) a physician and a psychiatric
15 advanced registered nurse practitioner. The person signing the
16 petition must have examined the minor, and the petition must contain
17 the following:

18 (A) The name and address of the petitioner;

19 (B) The name of the minor alleged to meet the criteria for
20 fourteen-day commitment;

21 (C) The name, telephone number, and address if known of every
22 person believed by the petitioner to be legally responsible for the
23 minor;

24 (D) A statement that the petitioner has examined the minor and
25 finds that the minor's condition meets required criteria for
26 fourteen-day commitment and the supporting facts therefor;

27 (E) A statement that the minor has been advised of the need for
28 voluntary treatment but has been unwilling or unable to consent to
29 necessary treatment;

30 (F) A statement that the minor has been advised of the loss of
31 firearm rights if involuntarily committed;

32 (G) A statement recommending the appropriate facility or
33 facilities to provide the necessary treatment; and

34 (H) A statement concerning whether a less restrictive alternative
35 to inpatient treatment is in the best interests of the minor.

36 (b) A copy of the petition shall be personally delivered to the
37 minor by the petitioner or petitioner's designee. A copy of the
38 petition shall be sent to the minor's attorney and the minor's
39 parent.

1 **Sec. 21.** RCW 71.34.750 and 2009 c 217 s 18 are each amended to
2 read as follows:

3 (1) At any time during the minor's period of fourteen-day
4 commitment, the professional person in charge may petition the court
5 for an order requiring the minor to undergo an additional one hundred
6 eighty-day period of treatment. The evidence in support of the
7 petition shall be presented by the county prosecutor unless the
8 petition is filed by the professional person in charge of a state-
9 operated facility in which case the evidence shall be presented by
10 the attorney general.

11 (2) The petition for one hundred eighty-day commitment shall
12 contain the following:

13 (a) The name and address of the petitioner or petitioners;

14 (b) The name of the minor alleged to meet the criteria for one
15 hundred eighty-day commitment;

16 (c) A statement that the petitioner is the professional person in
17 charge of the evaluation and treatment facility responsible for the
18 treatment of the minor;

19 (d) The date of the fourteen-day commitment order; and

20 (e) A summary of the facts supporting the petition.

21 (3) The petition shall be supported by accompanying affidavits
22 signed by: (a) Two examining physicians, one of whom shall be a child
23 psychiatrist, or two psychiatric advanced registered nurse
24 practitioners, one of whom shall be a child and adolescent or family
25 psychiatric advanced registered nurse practitioner, or two physician
26 assistants, one of whom must be supervised by a child psychiatrist;
27 (b) one children's mental health specialist and either an examining
28 physician, physician assistant, or a psychiatric advanced registered
29 nurse practitioner((r)); or (c) two among an examining physician,
30 physician assistant, and a psychiatric advanced registered nurse
31 practitioner, one of which needs to be a child psychiatrist a
32 physician assistant supervised by a child psychiatrist, or a child
33 and adolescent psychiatric nurse practitioner. The affidavits shall
34 describe in detail the behavior of the detained minor which supports
35 the petition and shall state whether a less restrictive alternative
36 to inpatient treatment is in the best interests of the minor.

37 (4) The petition for one hundred eighty-day commitment shall be
38 filed with the clerk of the court at least three days before the
39 expiration of the fourteen-day commitment period. The petitioner or
40 the petitioner's designee shall within twenty-four hours of filing

1 serve a copy of the petition on the minor and notify the minor's
2 attorney and the minor's parent. A copy of the petition shall be
3 provided to such persons at least twenty-four hours prior to the
4 hearing.

5 (5) At the time of filing, the court shall set a date within
6 seven days for the hearing on the petition. The court may continue
7 the hearing upon the written request of the minor or the minor's
8 attorney for not more than ten days. The minor or the parents shall
9 be afforded the same rights as in a fourteen-day commitment hearing.
10 Treatment of the minor shall continue pending the proceeding.

11 (6) For one hundred eighty-day commitment, the court must find by
12 clear, cogent, and convincing evidence that the minor:

13 (a) Is suffering from a mental disorder;

14 (b) Presents a likelihood of serious harm or is gravely disabled;
15 and

16 (c) Is in need of further treatment that only can be provided in
17 a one hundred eighty-day commitment.

18 (7) If the court finds that the criteria for commitment are met
19 and that less restrictive treatment in a community setting is not
20 appropriate or available, the court shall order the minor committed
21 for further inpatient treatment to the custody of the secretary or to
22 a private treatment and evaluation facility if the minor's parents
23 have assumed responsibility for payment for the treatment. If the
24 court finds that a less restrictive alternative is in the best
25 interest of the minor, the court shall order less restrictive
26 alternative treatment upon such conditions as necessary.

27 If the court determines that the minor does not meet the criteria
28 for one hundred eighty-day commitment, the minor shall be released.

29 (8) Successive one hundred eighty-day commitments are permissible
30 on the same grounds and under the same procedures as the original one
31 hundred eighty-day commitment. Such petitions shall be filed at least
32 five days prior to the expiration of the previous one hundred eighty-
33 day commitment order.

34 **Sec. 22.** RCW 71.34.770 and 2009 c 217 s 19 are each amended to
35 read as follows:

36 (1) The professional person in charge of the inpatient treatment
37 facility may authorize release for the minor under such conditions as
38 appropriate. Conditional release may be revoked pursuant to RCW

1 71.34.780 if leave conditions are not met or the minor's functioning
2 substantially deteriorates.

3 (2) Minors may be discharged prior to expiration of the
4 commitment period if the treating physician, physician assistant,
5 psychiatric advanced registered nurse practitioner, or professional
6 person in charge concludes that the minor no longer meets commitment
7 criteria.

8 **Sec. 23.** RCW 18.71A.030 and 2013 c 203 s 6 are each amended to
9 read as follows:

10 (1) A physician assistant may practice medicine in this state
11 only with the approval of the delegation agreement by the commission
12 and only to the extent permitted by the commission. A physician
13 assistant who has received a license but who has not received
14 commission approval of the delegation agreement under RCW 18.71A.040
15 may not practice. A physician assistant shall be subject to
16 discipline under chapter 18.130 RCW.

17 (2) Physician assistants may provide services that they are
18 competent to perform based on their education, training, and
19 experience and that are consistent with their commission-approved
20 delegation agreement. The supervising physician and the physician
21 assistant shall determine which procedures may be performed and the
22 degree of supervision under which the procedure is performed.
23 Physician assistants may practice in any area of medicine or surgery
24 as long as the practice is not beyond the supervising physician's own
25 scope of expertise and practice.

26 **Sec. 24.** RCW 18.57A.030 and 2013 c 203 s 3 are each amended to
27 read as follows:

28 (1) An osteopathic physician assistant as defined in this chapter
29 may practice osteopathic medicine in this state only with the
30 approval of the delegation agreement by the board and only to the
31 extent permitted by the board. An osteopathic physician assistant who
32 has received a license but who has not received board approval of the
33 delegation agreement under RCW 18.57A.040 may not practice. An
34 osteopathic physician assistant shall be subject to discipline by the
35 board under the provisions of chapter 18.130 RCW.

36 (2) Osteopathic physician assistants may provide services that
37 they are competent to perform based on their education, training, and
38 experience and that are consistent with their board-approved

1 delegation agreement. The supervising physician and the physician
2 assistant shall determine which procedures may be performed and the
3 degree of supervision under which the procedure is performed.
4 Physician assistants may practice in any area of medicine or surgery
5 so long as the practice is not beyond the supervising physician's own
6 scope of expertise and practice.

7 NEW SECTION. **Sec. 25.** Sections 7 and 12 of this act take effect
8 April 1, 2016.

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