

1 S.128

2 Introduced by Senator Ayer

3 Referred to Committee on

4 Date:

5 Subject: Health; mental health; judicial proceedings

6 Statement of purpose of bill as introduced: This bill proposes to update
7 provisions of Title 18 pertaining to mental health admission procedures to
8 reflect current practice.

9 An act relating to updating mental health judicial proceedings

10 It is hereby enacted by the General Assembly of the State of Vermont:

11 Sec. 1. 18 V.S.A. chapter 171 is amended to read:

12 CHAPTER 171. GENERAL PROVISIONS

13 § 7101. DEFINITIONS

14 As used in this part of this title, the following words, unless the context
15 otherwise requires, shall have the following meanings:

16 * * *

17 (4) "Designated hospital" means a public or private hospital, other
18 facility, or part of a hospital or facility designated by the ~~commissioner~~
19 Commissioner as adequate to provide appropriate care for ~~the persons with~~
20 ~~mentally ill patient~~ mental illness.

1 (5) "Elopement" means the leaving of a designated hospital or
2 designated program ~~or training school~~ without lawful authority.

3 * * *

4 (9) "Interested party" means a guardian, spouse, parent, adult child,
5 close adult relative, a responsible adult friend, or person who has the individual
6 in his or her charge or care. It also means a mental health professional, a law
7 enforcement officer, or a licensed physician, ~~a head of a hospital, a selectman,~~
8 ~~a town service officer, or a town health officer.~~

9 * * *

10 (15) "Patient" means a resident of or person in Vermont ~~qualified under~~
11 ~~this title for hospitalization or treatment as a mentally ill or mentally retarded~~
12 ~~individual~~ who has been found to be a person in need of hospitalization and
13 ordered into the custody of the Commissioner.

14 * * *

15 (26) "No refusal system" means a system of designated hospitals and,
16 intensive residential recovery facilities, and residential treatment programs
17 under contract with the ~~department of mental health~~ Department of Mental
18 Health that provides high intensity services, in which the facilities shall admit
19 any individual for care if the individual meets the eligibility criteria established
20 by the ~~commissioner~~ Commissioner in contract.

1 (27) “Participating hospital” means a designated hospital under contract
2 with the ~~department of mental health~~ Department of Mental Health to
3 participate in the no refusal system.

4 (28) “Secure residential recovery facility” shall have the same meaning
5 as in section 7620 of this title.

6 (29) “Successor in interest” means the mental health hospital owned and
7 operated by the ~~state~~ State that provides acute inpatient care and replaces the
8 Vermont State Hospital.

9 * * *

10 § 7104. ~~WRONGFUL HOSPITALIZATION~~ PLACEMENT IN CUSTODY
11 OR DENIAL OF RIGHTS; FRAUD; ELOPEMENT

12 Any person who ~~wilfully~~ willfully causes, or conspires with, or assists
13 another to cause any of the following shall be fined not more than \$500.00 or
14 imprisoned not more than one year, or both:

15 (1) the hospitalization of an individual knowing that the individual is not
16 mentally ill or in need of hospitalization or treatment as a ~~mentally ill or~~
17 ~~mentally retarded individual~~ person with a mental illness; or

18 (2) the denial to any individual of any rights granted to him or her under
19 this part of this title; ~~or~~

1 (3) the voluntary admission to a hospital of an individual knowing that
2 he or she is not mentally ill or eligible for treatment thereby attempting to
3 defraud the ~~state~~ State; or

4 (4) the elopement of any patient ~~or student~~ from a hospital ~~or training~~
5 ~~school~~, or who knowingly harbors any ~~sick person~~ patient who has eloped from
6 a hospital, or who aids in abducting a patient ~~or student~~ who has been
7 conditionally discharged from the person or persons in whose care and service
8 that patient ~~or student~~ has been legally placed; ~~shall be fined not more than~~
9 ~~\$500.00 or imprisoned not more than one year, or both.~~

10 § 7105. ~~ARREST~~ APPREHENSION OF ELOPED PERSONS

11 Any sheriff, deputy sheriff, constable, or officer of ~~state~~ State or local
12 police, and any officer or employee of any designated hospital, ~~designated~~
13 ~~program~~, or ~~training school~~ of a secure residential recovery facility may ~~arrest~~
14 ~~any~~ take into custody and return to a designated hospital or a secure residential
15 recovery facility a person in the custody of the Commissioner who has eloped
16 ~~from a designated hospital or designated program or training school and return~~
17 ~~such person.~~

18 § 7106. NOTICE OF ~~HOSPITALIZATION~~ CUSTODY AND DISCHARGE

19 Whenever a patient has been admitted to a designated hospital other than
20 upon his or her own application, the head of the designated hospital shall
21 immediately notify the patient's legal guardian, ~~spouse, parent or parents, or~~

1 ~~nearest known relative or interested party, if known~~ if any. If the involuntary
2 hospitalization or admission was without court order, notice shall also be given
3 to the superior court judge for the ~~family division of the superior court~~ Family
4 Division of the Superior Court in the unit wherein the designated hospital is
5 located. If the hospitalization or admission was by order of any court, the head
6 of the designated hospital admitting or discharging ~~an individual~~ the patient
7 shall forthwith make a report thereof to the ~~commissioner~~ Commissioner and
8 to the court which entered the order for hospitalization or admission.

9 § 7107. ~~EXTRAMURAL WORK~~

10 ~~Any hospital or training school in the state dealing with mental health may~~
11 ~~do, or procure to be done, extramural work in the way of prevention,~~
12 ~~observation, care, and consultation with respect to mental health. [Repealed.]~~

13 § 7108. ~~CANTEENS~~

14 ~~The chief executive officer of the Vermont State Hospital or its successor in~~
15 ~~interest may conduct a canteen or commissary, which shall be accessible to~~
16 ~~patients, employees, and visitors of the Vermont State Hospital or its successor~~
17 ~~in interest at designated hours and shall be operated by employees of the~~
18 ~~hospital. A revolving fund for this purpose is authorized. The salary of an~~
19 ~~employee of the hospital shall be charged against the canteen fund. Proceeds~~
20 ~~from sales may be used for operation of the canteen and the benefit of the~~
21 ~~patients and employees of the hospital under the direction of the chief~~

1 ~~executive officer and subject to the approval of the commissioner. All~~
2 ~~balances of such funds remaining at the end of any fiscal year shall remain in~~
3 ~~such fund for use during the succeeding fiscal year. An annual report of the~~
4 ~~status of the funds shall be submitted to the commissioner. [Repealed.]~~

5 **§ 7109. SALE OF ARTICLES; REVOLVING FUND**

6 (a) ~~The superintendent of a hospital or training school may sell articles~~
7 ~~made by the patients or students in the handiwork or occupational therapy~~
8 ~~departments of the institution and the proceeds thereof shall be credited to a~~
9 ~~revolving fund. When it is for their best interest, the superintendent may, with~~
10 ~~the consent of the patients or their legal representatives, employ patients or~~
11 ~~students or permit them to be employed on a day placement basis.~~

12 (b) ~~The consent of the patient or the legal representative of the patient or~~
13 ~~student shall, in consideration of the undertaking of the superintendent, contain~~
14 ~~the further agreement that one half the earnings of the patient or student shall~~
15 ~~be credited to the personal account of the patient or student so employed at~~
16 ~~interest for benefit of the patient or student and the balance shall be credited to~~
17 ~~the fund. The superintendent shall hold and expend the fund for the purchase~~
18 ~~of equipment and materials for the handicraft or group therapy departments~~
19 ~~and for the educational and recreational welfare of the patient or student group.~~
20 ~~He or she shall submit an annual report of the fund to the commissioner.~~

1 ~~Balances remaining in it at the end of a fiscal year shall be carried forward and~~
2 ~~be available for the succeeding fiscal year.~~

3 (c) ~~For purposes of this section the legal representative of the patient or~~
4 ~~student shall be the duly appointed guardian, the spouse, the parents or the next~~
5 ~~of kin legally responsible for the patient or student. In their absence, the~~
6 ~~commissioner shall be the legal representative. [Repealed.]~~

7 § 7110. CERTIFICATION OF MENTAL ILLNESS

8 A certification of mental illness by a licensed physician required by section
9 7504 of this title shall be made by a board eligible psychiatrist, a board
10 certified psychiatrist, ~~or a resident in psychiatry, or a physician licensed~~
11 ~~pursuant to 26 V.S.A. chapter 23 if no psychiatrist is available,~~ under penalty
12 of perjury. ~~In areas of the state where board eligible psychiatrists, board~~
13 ~~certified psychiatrists, or residents in psychiatry are not available to complete~~
14 ~~admission certifications to the Vermont State Hospital or its successor in~~
15 ~~interest, the commissioner may designate other licensed physicians as~~
16 ~~appropriate to complete certification for purposes of section 7504 of this title.~~
17 The Commissioner shall develop a training program that licensed physicians
18 who are not psychiatrists shall complete before effecting a certification of
19 mental illness.

1 § 7111. RIGHT TO LEGAL COUNSEL

2 In any proceeding before, or notice to, a court of this ~~state~~ State involving a
3 patient ~~or student~~, or a proposed patient ~~or student~~, that person shall be
4 afforded counsel, and if the patient ~~or student~~ or proposed patient ~~or student~~ is
5 unable to pay for counsel, compensation shall be paid by the ~~state~~ State to
6 counsel assigned by the court; however, this section shall not apply to a
7 proceeding under section 7505 of this title.

8 * * *

9 § 7113. INDEPENDENT EXAMINATION: PAYMENT

10 Whenever a court orders an independent examination by a mental health
11 professional or a qualified ~~mental retardation~~ developmental disabilities
12 professional pursuant to this title or 13 V.S.A. § 4822, the cost of the initial
13 examination shall be paid by the ~~department of disabilities, aging, and~~
14 ~~independent living~~ Department of Disabilities, Aging, and Independent Living
15 or of ~~health~~ Mental Health, as applicable. The mental health professional or
16 qualified ~~mental retardation~~ developmental disabilities professional may be
17 selected by the court but the ~~commissioner of disabilities, aging, and~~
18 ~~independent living~~ Commissioner of Disabilities, Aging, and Independent
19 Living or the ~~commissioner of mental health~~ Commissioner of Mental Health
20 may adopt a reasonable fee ~~schedule~~ schedules for examination, reports, and
21 testimony.

1 Sec. 2. 18 V.S.A. § 7205 is amended to read:

2 § 7205. SUPERVISION OF INSTITUTIONS

3 (a) ~~The department of mental health~~ Department of Mental Health shall
4 operate the Vermont State Hospital or its successor in interest and a secure
5 residential recovery facility. The Department shall be responsible for patients
6 receiving involuntary treatment at all designated hospitals, including the
7 Vermont State Hospital or its successor in interest, designated programs, and at
8 the secure residential recovery facility.

9 (b) ~~The commissioner of the department of mental health~~ Commissioner of
10 Mental Health, in consultation with the ~~secretary~~ Secretary, shall appoint a
11 chief executive officer of the Vermont State Hospital or its successor in
12 interest and a chief executive officer of the secure residential recovery facility
13 to oversee the operations of the hospital and the secure residential recovery
14 facility, respectively. The chief executive officer ~~position~~ positions shall be an
15 exempt ~~position~~ positions.

16 Sec. 3. 18 V.S.A. chapter 179 is amended to read:

17 CHAPTER 179. ADMISSION PROCEDURES

18 * * *

19 § 7504. APPLICATION FOR EMERGENCY EXAMINATION

20 (a) A state or local law enforcement officer, mental health professional, or
21 a physician licensed pursuant to 26 V.S.A. chapter 23 may take a person into

1 temporary custody during the period between the conduct of an initial
2 examination and the completion of a certificate by a licensed physician
3 authorizing an emergency examination if specific and articulable facts exist
4 that give rise to a reasonable suspicion that the person is a person in need of
5 treatment.

6 (b) A person shall be admitted to a designated hospital for an emergency
7 examination to determine if he or she is a person in need of treatment upon
8 written application by an interested party accompanied by a certificate by a
9 licensed physician who is not the applicant. The application and certificate
10 shall set forth the facts and circumstances which constitute the need for an
11 emergency examination and which show that the person is a person in need of
12 treatment.

13 ~~(b)~~(c) The decision of an interested party and a licensed physician to
14 complete an application and certificate shall be authority for transporting the
15 person to a designated hospital for an emergency examination, as provided in
16 section 7511 of this title.

17 ~~(e)~~(d) For the purposes of admission of ~~an individual~~ a person to a
18 designated hospital for care and treatment under this section, a head of a
19 hospital, as provided in subsection ~~(a)~~(b) of this section, may include a person
20 designated in writing by the head of the hospital to discharge the authority
21 granted in this section. A designated person must be an official hospital

1 administrator, supervisory personnel, or a licensed physician on duty on the
2 hospital premises other than the certifying physician under subsection ~~(a)~~(b) of
3 this section.

4 § 7505. WARRANT FOR IMMEDIATE EXAMINATION

5 (a)(1) In emergency circumstances ~~where a certification by a physician is~~
6 ~~not available without serious and unreasonable delay, and when personal~~
7 ~~observation of the conduct of a person constitutes reasonable grounds to~~
8 ~~believe that the person is a person in need of treatment, and he or she presents~~
9 ~~an immediate risk of serious injury to himself or herself or others if not~~
10 ~~restrained, a state or local law enforcement officer or mental health~~
11 ~~professional may make an application, not accompanied by a physician's~~
12 ~~certificate, to any district or superior court judge for a warrant for an~~
13 immediate examination when:

14 (A) a certification by a physician is not available without serious
15 unreasonable delay;

16 (B) personal observation of the conduct of a person constitutes
17 reasonable grounds to believe that the person is a person in need of
18 treatment; and

19 (C) he or she presents an immediate risk of serious injury to himself
20 or herself or others if not restrained.

1 (2) If personal observation of the person is not possible, receipt by a
2 state or local law enforcement officer or a mental health professional of a
3 reliable report of conduct that constitutes reasonable grounds to believe that the
4 person is a person in need of treatment may serve as the basis for the warrant
5 so long as the circumstances preventing personal observation are set forth in
6 the application.

7 (b) ~~The~~ A state or local law enforcement officer or mental health
8 professional, or both, may take the person into temporary custody and shall
9 apply to the court without delay for the warrant. The application for a warrant
10 shall be the sole authority needed for a state or local law enforcement officer to
11 enter a residence or other premises where the person is reasonably believed to
12 be located in order to apprehend the person and take him or her into temporary
13 custody.

14 (c) If the judge is satisfied that a physician's certificate is not available
15 without serious and unreasonable delay, and that probable cause exists to
16 believe that the person is in need of an immediate examination pursuant to
17 subsection (a) of this section, he or she the judge may grant the warrant and
18 order the person to submit to an immediate examination at a designated
19 hospital.

1 (d) ~~If necessary~~ By granting a warrant, the court ~~may order the~~ authorizes a
2 state or local law enforcement officer or mental health professional to transport
3 the person to a designated hospital for an immediate examination.

4 (e) Upon admission to a designated hospital pursuant to a warrant for
5 immediate examination, the person shall be ~~immediately~~ examined by a
6 licensed physician as soon as practicable. If the physician certifies that the
7 person is a person in need of treatment, the person shall be held for an
8 emergency examination in accordance with section 7508 of this title. If the
9 physician does not certify that the person is a person in need of treatment, ~~he or~~
10 ~~she~~ the physician shall immediately discharge the person and cause him or her
11 to be returned to the place from which he or she was taken, or to such place as
12 the person reasonably directs.

13 § 7508. EMERGENCY EXAMINATION

14 (a) ~~When~~ For the purposes of part 8 of this title, a person is shall be
15 deemed admitted to a designated hospital ~~for~~ upon his or her arrival at the
16 hospital following an emergency examination ~~in accordance with~~. A person
17 admitted to a designated hospital pursuant to section 7504 or 7505(e) of this
18 title, ~~he or she~~ shall be examined and certified by a ~~psychiatrist~~ as soon as
19 ~~practicable, but~~ licensed physician not later than one working day after
20 admission. A person admitted to a designated hospital pursuant to section

1 7505 of this title shall be examined and certified by a licensed physician as
2 soon as practicable, but not later than two working days after admission.

3 (b) ~~If the A~~ person is admitted on an application and physician's certificate,
4 ~~the psychiatrist~~ shall not be examined by the same physician who signed the
5 certificate pursuant to section 7504.

6 (c) If the ~~psychiatrist~~ physician conducting the emergency examination
7 does not certify that the person is a person in need of treatment, he or she shall
8 immediately discharge the person and cause him or her to be returned to the
9 place from which he or she was taken or to such place as the person reasonably
10 directs.

11 (d) If the ~~psychiatrist~~ physician does certify that the person is a person in
12 need of treatment, the person's hospitalization may continue for an additional
13 72 hours, at which time hospitalization shall terminate, unless within that
14 period:

15 (1) the person has been accepted for voluntary admission under section
16 7503 of this title; or

17 (2) an application for involuntary treatment is filed with the appropriate
18 court under section 7612 of this title in which case the patient shall remain
19 hospitalized and shall receive treatment pending the court's decision on the
20 application.

21 * * *

1 § 7510. ~~PRELIMINARY HEARING~~ PROBABLE CAUSE REVIEW

2 (a) Within five calendar days after a person is admitted to a designated
3 hospital for emergency examination, he or she may request the ~~criminal~~
4 ~~division of the superior court~~ Family Division of the Superior Court to conduct
5 a ~~preliminary hearing~~ probable cause review to determine whether there is
6 probable cause to believe that he or she was a person in need of treatment at
7 the time of his or her admission to the hospital and at the time of the review.

8 (b) The court shall conduct the hearing within three working days of the
9 filing of the request. The court shall cause timely notice of the ~~preliminary~~
10 ~~hearing~~ probable cause review to be given to the ~~patient~~ person or his or her
11 attorney, and the hospital ~~and the attorney for the applicant.~~

12 (c) The ~~individual~~ person requesting the review has the right to be present
13 and represented by legal counsel at the ~~preliminary hearing~~ probable cause
14 review.

15 (d) The Rules of Evidence shall not be applicable at the probable cause
16 review. The court may consider any testimony, sworn statement, or affidavits
17 in determining whether probable cause exists. If probable cause to believe that
18 the individual was a person in need of treatment at the time of his or her
19 admission and at the time of the review or solely at the time of the review is
20 established at the ~~preliminary hearing~~ probable cause review, the individual
21 shall be ordered held for further proceedings in accordance with the law. If

1 probable cause is not established in both instances or solely with regard to
2 whether the person was in need of treatment at the time of the review, the
3 individual shall be ordered discharged from the hospital and the court shall
4 order him or her returned to the place from which he or she was transported or
5 to his or her home.

6 (e) Upon a showing of need, the court may grant a reasonable continuance
7 to either the ~~patient's~~ person's attorney or the attorney for the ~~state~~ State.

8 * * *

9 Sec. 4. 18 V.S.A. chapter 181 is amended to read:

10 CHAPTER 181. JUDICIAL PROCEEDINGS

11 * * *

12 § 7612. APPLICATION FOR INVOLUNTARY TREATMENT

13 (a) An interested party may, by filing a written application, commence
14 proceedings for the involuntary treatment of an individual by judicial process.

15 (b) The application shall be filed in the ~~criminal division of the superior~~
16 ~~court of~~ Family Division of the Superior Court for the district in which the
17 proposed ~~patient's residence~~ patient resides or, in the case of a nonresident, in
18 any ~~district~~ superior court.

19 (c) If the application is filed under section 7508 or 7620 of this title, it shall
20 be filed in the ~~criminal division of the superior court~~ Family Division of the
21 Superior Court in which the hospital is located.

1 (d) The application shall contain:

2 (1) The name and address of the applicant; and

3 (2) A statement of the current and relevant facts upon which the
4 allegation of mental illness and need for treatment is based. The application
5 shall be signed by the applicant under penalty of perjury.

6 (e) The application shall be accompanied by:

7 (1) A certificate of a licensed physician, which shall be executed under
8 penalty of perjury stating that he or she has examined the proposed patient
9 within five days of the date the petition is filed, and is of the opinion that the
10 ~~proposed patient~~ person is a person in need of treatment, including the current
11 and relevant facts and circumstances upon which the physician's opinion is
12 based; or

13 (2) A written statement by the applicant that the ~~proposed patient~~ person
14 refused to submit to an examination by a licensed physician.

15 (f) Before an examining physician completes the certificate of examination,
16 he or she shall consider available alternative forms of care and treatment that
17 might be adequate to provide for the person's needs, without requiring
18 hospitalization.

19 § 7613. NOTICE—APPOINTMENT OF COUNSEL

20 (a) When the application is filed, the court shall appoint counsel for the
21 proposed patient, and transmit a copy of the application, the physician's

1 certificate, if any, and a notice of hearing to the proposed patient, his or her
2 attorney, guardian, ~~or any person having custody and control of the proposed~~
3 ~~patient, if any, the state's attorney, State's Attorney or the attorney general~~
4 Attorney General, and any other person the court believes has a concern for the
5 proposed patient's welfare. A copy of the notice of hearing shall also be
6 transmitted to the applicant and certifying physician.

7 * * *

8 § 7620. APPLICATION FOR CONTINUED TREATMENT

9 * * *

10 (e) As used in this chapter:

11 (1) "Secure," when describing a residential facility, means that the
12 residents can be physically prevented from leaving the facility by means of
13 locking devices or other mechanical or physical mechanisms.

14 (2) "Secure residential recovery facility" means a residential facility;
15 owned and operated by the State and licensed as a therapeutic community
16 residence as defined in 33 V.S.A. § 7102(11), for an individual who no longer
17 requires acute inpatient care but who does remain in need of treatment within a
18 secure setting for an extended period of time. A secure residential recovery
19 facility shall not be used for any purpose other than the purposes permitted by
20 this section.

1 § 7621. HEARING ON APPLICATION FOR CONTINUED TREATMENT;
2 ORDERS

3 (a) The hearing on the application for continued treatment shall be held in
4 accordance with the procedures set forth in sections 7613, 7614, 7615, and
5 7616 of this title.

6 (b) If the court finds that the ~~patient~~ person is a ~~patient~~ person in need of
7 further treatment ~~and requires hospitalization~~, it shall order ~~hospitalization~~
8 continued treatment for up to one year.

9 (c) If the court finds that the ~~patient~~ person is a ~~patient~~ person in need of
10 further treatment but does not require hospitalization, it shall order
11 nonhospitalization for up to one year. If the treatment plan proposed by the
12 ~~commissioner~~ Commissioner for a ~~patient~~ person in need of further treatment
13 includes admission to a secure residential recovery facility, the court may at
14 any time, on its own motion or on motion of an interested party, review the
15 need for treatment at the secure residential recovery facility.

16 (d) If at any time during the period of nonhospitalization ordered under
17 subsection (c) of this section, it comes to the attention of the court, that the
18 person is not complying with the order, or that the alternative treatment has not
19 been adequate to meet the ~~patient's~~ person's treatment needs, the court may,
20 after proper hearing:

1 (1) Consider other treatments not involving hospitalization, modify its
2 original order, and direct the ~~patient~~ person to undergo another program of
3 alternative treatment for an indeterminate period, up to the expiration date of
4 the original order; or

5 (2) Order that the ~~patient~~ person be hospitalized, up to the expiration
6 date of the original order.

7 (e) If the court finds that the ~~patient~~ person is not a ~~patient~~ person in need
8 of further treatment, it shall order the ~~patient~~ person discharged.

9 (f) This section shall not be construed to prohibit the court from issuing
10 subsequent orders after a new application is filed pursuant to section 7620 of
11 this title.

12 § 7622. EXPERT TESTIMONY

13 (a) A mental health professional testifying at hearings conducted under this
14 part may, if appropriately qualified, give opinion testimony and,
15 notwithstanding 12 V.S.A. § 1612, describe any information which he or she
16 acquired in attending the patient.

17 (b) The facts or data in the particular case, upon which an expert bases an
18 opinion or inference, may be those perceived by or made known to him or her
19 at or before the hearing. If of a type reasonably relied upon by experts in the
20 particular field in forming opinions or inferences upon the subject, the facts or

1 data need not be admissible in evidence. Rule 703 of the Vermont Rules of
2 Evidence shall not apply to a hearing held pursuant to part 8 of this title.

3 § 7623. ORDERS; CUSTODY

4 All court orders of hospitalization, nonhospitalization, and continued
5 treatment shall be directed to the ~~commissioner~~ Commissioner and shall admit
6 the ~~patient~~ person to his or her care and custody for the period specified.

7 * * *

8 Sec. 5. 18 V.S.A. § 7708 is amended to read:

9 § 7708. ~~SURGICAL OPERATIONS~~

10 ~~If the superintendent finds that a patient supported by the state requires a~~
11 ~~surgical operation or that a surgical operation would promote the possibility of~~
12 ~~his or her discharge from the hospital, the superintendent, with the consent of~~
13 ~~the patient, his or her attorney, or his or her legally appointed guardian, if any,~~
14 ~~or next of kin, if any be known, may make the necessary arrangements with~~
15 ~~some surgeon and hospital for the operation. The expense of the operation~~
16 ~~shall be borne by the state in the same proportion as the patient is supported by~~
17 ~~the state. [Repealed.]~~

1 Sec. 6. 18 V.S.A. chapter 189 is amended to read:

2 CHAPTER 189. RELEASE AND DISCHARGE

3 § 8003. PERSONAL NEEDS OF PATIENT

4 The ~~commissioner~~ Commissioner shall make any necessary arrangements to
5 ensure:

6 (1) that no patient is discharged or granted a conditional release from a
7 designated hospital without suitable clothing; and

8 (2) that any indigent patient discharged or granted a conditional release
9 is furnished suitable transportation for his or her return home and an amount of
10 money as may be prescribed by the head of ~~the~~ a designated hospital to enable
11 the patient to meet his or her immediate needs.

12 * * *

13 § 8006. VISITS

14 (a) ~~The head of a hospital may grant a visit permit of not more than 30 days~~
15 ~~to any patient under his or her charge. [Deleted.]~~

16 (b) The granting and revocation of visits shall be made in accordance with
17 rules and procedures adopted by the head of the designated hospital.

18 § 8007. ~~CONDITIONAL DISCHARGES~~

19 (a) ~~The board or the head of a hospital may conditionally discharge from a~~
20 ~~hospital any patient who may be safely and properly cared for in a place other~~
21 ~~than the hospital.~~

1 ~~(b) A conditional discharge may extend for a term of six months, but shall~~
2 ~~not exceed 60 days unless the head of the hospital determines that a longer~~
3 ~~period will materially improve the availability of a program of treatment which~~
4 ~~is an alternative to hospitalization.~~

5 ~~(c) Unless sooner revoked or renewed, a conditional discharge shall~~
6 ~~become absolute at the end of its term.~~

7 ~~(d) A conditional discharge may be granted subject to the patient's~~
8 ~~agreement to participate in outpatient, after care, or follow up treatment~~
9 ~~programs, and shall be subject to such other conditions and terms as are~~
10 ~~established by the granting authority.~~

11 ~~(e) Each patient granted a conditional discharge shall be provided, so far as~~
12 ~~practicable and appropriate, with continuing treatment on an outpatient or~~
13 ~~partial hospitalization basis.~~

14 ~~(f) Each patient granted a conditional discharge shall be given a written~~
15 ~~statement of the conditions of his or her release, the violation of which can~~
16 ~~cause revocation.~~

17 ~~(g) A conditional discharge may be renewed by the granting authority at~~
18 ~~any time before it becomes absolute if the head of a hospital first determines~~
19 ~~that such renewal will substantially reduce the risk that the patient will become~~
20 ~~a person in need of treatment in the near future. [Repealed.]~~

1 § 8008. ~~REVOCAION OF CONDITIONAL DISCHARGE~~

2 (a) ~~The board or the head of the hospital may revoke a conditional~~
3 ~~discharge at any time before that discharge becomes absolute if the patient fails~~
4 ~~to comply with the conditions of the discharge.~~

5 (b) ~~A revocation by the board or the head of the hospital shall authorize the~~
6 ~~return of the patient to the hospital and shall be sufficient warrant for a law~~
7 ~~enforcement officer or mental health professional to take the patient into~~
8 ~~custody and return him or her to the hospital from which he or she was~~
9 ~~conditionally discharged.~~

10 (c) ~~Immediately upon his or her return to the hospital, the patient shall be~~
11 ~~examined by a physician who shall orally explain to the patient the purpose of~~
12 ~~the examination and the reasons why the patient was returned to the hospital.~~

13 (d) ~~If the examining physician certifies in writing to the head of the~~
14 ~~hospital that, in his or her opinion, the patient is a person in need of treatment,~~
15 ~~setting forth the recent and relevant facts supporting this opinion, the~~
16 ~~revocation shall become effective and the patient shall be readmitted to the~~
17 ~~hospital. If the examining physician does not so certify, the revocation shall be~~
18 ~~cancelled and the patient shall be returned to the place from which he or she~~
19 ~~was taken.~~

20 (e) ~~If the patient is readmitted to the hospital, he or she may apply~~
21 ~~immediately for a judicial review of his or her admission, and he or she shall~~

1 ~~be given a written notice of this right and of his or her right to legal counsel.~~

2 [Repealed.]

3 § 8009. ADMINISTRATIVE DISCHARGE

4 (a) The head of ~~the~~ a designated hospital may at any time discharge a
5 voluntary or judicially hospitalized patient whom he or she deems clinically
6 suitable for discharge.

7 (b) The head of ~~the~~ a designated hospital shall discharge a judicially
8 hospitalized patient when the patient is no longer a ~~patient~~ person in need of
9 further treatment. When a judicially hospitalized patient is discharged, the
10 head of ~~the~~ a designated hospital shall notify the ~~applicant, the certifying~~
11 ~~physician~~ Commissioner, the ~~family division of the superior court~~ Family
12 Division of the Superior Court, and anyone who was notified at the time the
13 patient was hospitalized.

14 (c) ~~A person~~ An individual responsible for providing treatment other than
15 hospitalization to ~~an individual~~ a person ordered to undergo a program of
16 alternative treatment, under section 7618 or 7621 of this title, may terminate
17 the alternative treatment to the ~~individual~~ person if the provider of this
18 alternative treatment considers the ~~individual~~ person clinically suitable for
19 termination of treatment. Upon termination of alternative treatment, the ~~family~~
20 ~~division of the superior court~~ Family Division of the Superior Court shall be so
21 notified by the provider of the alternative treatment.

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Sec. 7. 18 V.S.A. chapter 197 is amended to read:

CHAPTER 197. MENTALLY ILL USERS OF ALCOHOL OR DRUGS

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§ 8404. ~~CONDITIONAL DISCHARGE~~

~~The board of mental health, in its discretion, may grant a conditional discharge to a patient admitted under this chapter after the expiration of one month from the date of admission and may revoke any conditional discharge so granted. A revocation of a conditional discharge by the board of mental health at any time prior to the expiration of the original term of hospitalization shall be sufficient warrant for the return of the patient to the hospital from which he or she was discharged, there to remain until a subsequent conditional discharge or the expiration of the full term from the date of the original admission. [Repealed.]~~

§ 8405. OUTSIDE VISITS

In the discretion of the head of a designated hospital, a patient admitted under this chapter may be permitted to visit a specifically designated place for a period not to exceed five days and return to the same hospital. The visit may be allowed to see a dying relative, to attend the funeral of a relative, to obtain special medical services, to contact prospective employers, or for any compelling reason consistent with the welfare or rehabilitation of the patient.

1 Sec. 8. EFFECTIVE DATE

2 This act shall take effect on July 1, 2013.