

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2041

(Reference to printed bill)

1 Page 1, between lines 1 and 2, insert:

2 "Section 1. Section 36-501, Arizona Revised Statutes, is amended to
3 read:

4 36-501. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Administration" means the Arizona health care cost containment
7 system administration.

8 2. "Admitting officer" means a psychiatrist or other physician or
9 psychiatric and mental health nurse practitioner with experience in
10 performing psychiatric examinations who has been designated as an admitting
11 officer of the evaluation agency by the person in charge of the evaluation
12 agency.

13 3. "Authorized transporter" means a transportation entity that is
14 contracted with a city, town or county to provide services pursuant to this
15 chapter and that is either:

16 (a) An ambulance service that holds a valid certificate of
17 necessity.

18 (b) A transportation provider authorized by this state to provide
19 safe behavioral health transportation for individuals requiring
20 transportation pursuant to this chapter.

21 4. "Chief medical officer" means the chief medical officer under the
22 supervision of the superintendent of the state hospital.

23 5. "Contraindicated" means that access is reasonably likely to
24 endanger the life or physical safety of the patient or another person.

1 6. "Court" means the superior court in the county in this state in
2 which the patient resides or was found before screening or emergency
3 admission under this title.

4 7. "Criminal history" means police reports, lists of prior arrests
5 and convictions, criminal case pleadings and court orders, including a
6 determination that the person has been found incompetent to stand trial
7 pursuant to section 13-4510.

8 8. "Danger to others" means that the judgment of a person who has a
9 mental disorder is so impaired that the person is unable to understand the
10 person's need for treatment and as a result of the person's mental disorder
11 the person's continued behavior can reasonably be expected, on the basis of
12 competent medical opinion, to result in serious physical harm.

13 9. "Danger to self":

14 (a) Means behavior that, as a result of a mental disorder:

15 (i) Constitutes a danger of inflicting serious physical harm on
16 oneself, including attempted suicide or the serious threat thereof, if the
17 threat is such that, when considered in the light of its context and in
18 light of the individual's previous acts, it is substantially supportive of
19 an expectation that the threat will be carried out.

20 (ii) Without hospitalization will result in serious physical harm or
21 serious illness to the person.

22 (b) Does not include behavior that establishes only the condition of
23 having a grave disability.

24 10. "Department" means the department of health services.

25 11. "Detention" means the taking into custody of a patient or
26 proposed patient.

27 12. "Director" means the director of the administration.

28 13. "Evaluation" means:

29 (a) A professional multidisciplinary analysis that may include
30 firsthand observations or remote observations by interactive audiovisual
31 media and that is based on data describing the person's identity, biography

1 and medical, psychological and social conditions carried out by a group of
2 persons consisting of not less than the following:

3 (i) Two licensed physicians who are qualified psychiatrists, if
4 possible, or at least experienced in psychiatric matters, and who shall
5 examine and report their findings independently. The person against whom a
6 petition has been filed shall be notified that the person may select one of
7 the physicians. A psychiatric resident in a training program approved by
8 the American medical association or by the American osteopathic association
9 may examine the person in place of one of the psychiatrists if the resident
10 is supervised in the examination and preparation of the affidavit and
11 testimony in court by a qualified psychiatrist appointed to assist in the
12 resident's training, and if the supervising psychiatrist is available for
13 discussion with the attorneys for all parties and for court appearance and
14 testimony if requested by the court or any of the attorneys.

15 (ii) Two other individuals, one of whom, if available, is a
16 psychologist and in any event a social worker familiar with mental health
17 and human services that may be available placement alternatives appropriate
18 for treatment. An evaluation may be conducted on an inpatient basis, an
19 outpatient basis or a combination of both, and every reasonable attempt
20 shall be made to conduct the evaluation in any language preferred by the
21 person.

22 (b) A physical examination that is consistent with the existing
23 standards of care and that is performed by one of the evaluating physicians
24 or by or under the supervision of a physician who is licensed pursuant to
25 title 32, chapter 13 or 17 or a registered nurse practitioner who is
26 licensed pursuant to title 32, chapter 15 if the results of that
27 examination are reviewed or augmented by one of the evaluating physicians.

28 14. "Evaluation agency" means a health care agency that is licensed
29 by the department, ~~and~~ that has been approved pursuant to this
30 title, ~~providing~~ AND THAT PROVIDES those services required of ~~such~~ THE
31 agency by this chapter.

1 15. "Family member" means a spouse, parent, adult child, adult
2 sibling or other blood relative of a person undergoing treatment or
3 evaluation pursuant to this chapter.

4 16. "Grave disability" means a condition evidenced by behavior in
5 which a person, as a result of a mental disorder, is likely to come to
6 serious physical harm or serious illness because the person is unable to
7 provide for the person's own basic physical needs.

8 17. "Health care decision maker" has the same meaning prescribed in
9 section 12-2801.

10 18. "Health care entity" means a health care provider, the
11 department, the administration or a regional behavioral health authority
12 that is under contract with the administration.

13 19. "Health care provider" means a health care institution as
14 defined in section 36-401 that is licensed as a behavioral health provider
15 pursuant to department rules or a mental health provider.

16 20. "Independent evaluator" means a licensed physician, psychiatric
17 and mental health nurse practitioner or psychologist who is selected by the
18 person to be evaluated or by ~~such~~ THE person's attorney.

19 21. "Informed consent" means a voluntary decision following
20 presentation of all facts necessary to form the basis of an intelligent
21 consent by the patient or guardian with no minimizing of known dangers of
22 any procedures.

23 22. "Least restrictive treatment alternative" means the treatment
24 plan and setting that infringe in the least possible degree with the
25 patient's right to liberty and that are consistent with providing needed
26 treatment in a safe and humane manner.

27 23. "Licensed physician" means any medical doctor or doctor of
28 osteopathy who is either:

29 (a) Licensed in this state.

30 (b) A full-time hospital physician licensed in another state and
31 serving on the staff of a hospital operated or licensed by the United
32 States government.

1 24. "Medical director of an evaluation agency" means a psychiatrist,
2 or other licensed physician experienced in psychiatric matters, who is
3 designated in writing by the governing body of the agency as the person in
4 charge of the medical services of the agency for the purposes of this
5 chapter and may include the chief medical officer of the state hospital.

6 25. "Medical director of a mental health treatment agency" means a
7 psychiatrist, or other licensed physician experienced in psychiatric
8 matters, who is designated in writing by the governing body of the agency
9 as the person in charge of the medical services of the agency for the
10 purposes of this chapter and includes the chief medical officer of the
11 state hospital.

12 26. "Mental disorder" means a substantial disorder of the person's
13 emotional processes, thought, cognition or memory. Mental disorder is
14 distinguished from:

15 (a) Conditions that are primarily those of drug abuse, alcoholism or
16 intellectual disability, unless, in addition to one or more of these
17 conditions, the person has a mental disorder.

18 (b) The declining mental abilities that directly accompany impending
19 death.

20 (c) Character and personality disorders characterized by lifelong
21 and deeply ingrained antisocial behavior patterns, including sexual
22 behaviors that are abnormal and prohibited by statute unless the behavior
23 results from a mental disorder.

24 27. "Mental health provider" means any physician or provider of
25 mental health or behavioral health services who is involved in evaluating,
26 caring for, treating or rehabilitating a patient.

27 28. "Mental health treatment agency" means the state hospital or a
28 health care agency that is licensed by the department and that provides
29 those services that are required of the agency by this chapter.

30 29. "Outpatient treatment" or "combined inpatient and outpatient
31 treatment" means any treatment program not requiring continuous inpatient
32 hospitalization.

1 30. "Outpatient treatment plan" means a treatment plan that does not
2 require continuous inpatient hospitalization.

3 31. "Patient" means any person who is undergoing examination,
4 evaluation or behavioral or mental health treatment under this chapter.

5 32. "Peace officers" means sheriffs of counties, constables,
6 marshals and policemen of cities and towns.

7 33. "Persistent or acute disability" means a severe mental disorder
8 that meets all the following criteria:

9 (a) Significantly impairs judgment, reason, behavior or capacity to
10 recognize reality.

11 (b) If not treated, has a substantial probability of causing the
12 person to suffer or continue to suffer severe and abnormal mental,
13 emotional or physical harm.

14 (c) Substantially impairs the person's capacity to make an informed
15 decision regarding treatment, and this impairment causes the person to be
16 incapable of understanding and expressing an understanding of the
17 advantages and disadvantages of accepting treatment and understanding and
18 expressing an understanding of the alternatives to the particular treatment
19 offered after the advantages, disadvantages and alternatives are explained
20 to that person.

21 (d) Has a reasonable prospect of being treatable by outpatient,
22 inpatient or combined inpatient and outpatient treatment.

23 34. "Prepetition screening" means the review of each application
24 requesting court-ordered evaluation, including an investigation of facts
25 alleged in the application, an interview with each applicant and an
26 interview, if possible, with the proposed patient. The purpose of the
27 interview with the proposed patient is to assess the problem, explain the
28 application and, when indicated, attempt to persuade the proposed patient
29 to receive, on a voluntary basis, evaluation or other services.

30 35. "Prescribed form" means a form established by a court or the
31 rules of the administration in accordance with the laws of this state.

1 36. "Professional" means a physician who is licensed pursuant to
2 title 32, chapter 13 or 17, a psychologist who is licensed pursuant to
3 title 32, chapter 19.1 or a psychiatric and mental health nurse
4 practitioner who is certified pursuant to title 32, chapter 15.

5 37. "Proposed patient" means a person for whom an application for
6 evaluation has been made or a petition for court-ordered evaluation has
7 been filed.

8 38. "Prosecuting agency" means the county attorney, attorney general
9 or city attorney who applied or petitioned for an evaluation or treatment
10 pursuant to this chapter.

11 39. "Psychiatric and mental health nurse practitioner" means a
12 registered nurse practitioner as defined in section 32-1601 who has
13 completed an adult or family psychiatric and mental health nurse
14 practitioner program and who is certified as an adult or family psychiatric
15 and mental health nurse practitioner by the state board of nursing.

16 40. "Psychiatrist" means a licensed physician who has completed
17 three years of graduate training in psychiatry in a program approved by the
18 American medical association or the American osteopathic association.

19 41. "Psychologist" means a person who is licensed under title 32,
20 chapter 19.1 and who is experienced in the practice of clinical psychology.

21 42. "Records" means all communications that are recorded in any form
22 or medium and that relate to patient examination, evaluation or behavioral
23 or mental health treatment. Records include medical records that are
24 prepared by a health care provider or other providers. Records do not
25 include:

26 (a) Materials that are prepared in connection with utilization
27 review, peer review or quality assurance activities, including records that
28 a health care provider prepares pursuant to section 36-441, 36-445, 36-2402
29 or 36-2917.

30 (b) Recorded telephone and radio calls to and from a publicly
31 operated emergency dispatch office relating to requests for emergency
32 services or reports of suspected criminal activity.

1 43. "Regional behavioral health authority" has the same meaning
2 prescribed in section 36-3401.

3 44. "Screening agency" means a health care agency that is licensed
4 by the department and that provides those services required of ~~such~~ THE
5 agency by this chapter.

6 45. "Social worker" means a person who has completed two years of
7 graduate training in social work in a program approved by the council of
8 social work education and who has experience in mental health.

9 46. "State hospital" means the Arizona state hospital.

10 47. "Superintendent" means the superintendent of the state hospital.

11 48. "VOLUNTARY EVALUATION" MEANS THE ONGOING COLLECTION AND ANALYSIS
12 OF A PERSON'S MEDICAL, PSYCHOLOGICAL, PSYCHIATRIC AND SOCIAL CONDITIONS IN
13 ORDER TO INITIALLY DETERMINE IF A HEALTH DISORDER EXISTS AND IF THERE IS A
14 NEED FOR BEHAVIORAL HEALTH SERVICES AND, ON AN ONGOING BASIS, TO ENSURE
15 THAT THE PERSON'S SERVICE PLAN IS DESIGNED TO MEET THE PERSON'S AND THE
16 PERSON'S FAMILY'S CURRENT NEEDS AND LONG-TERM GOALS."

17 Renumber to conform

18 Page 1, line 4, after "complete" insert "; definitions"

19 Line 12, strike "AN" insert "A VOLUNTARY"

20 Strike lines 17 through 19, insert "VOLUNTARY EVALUATION. IF THE VOLUNTARY
21 EVALUATION RECOMMENDS THAT THE PATIENT RECEIVE A COURT-ORDERED EVALUATION,
22 THE RECOMMENDATION MUST BE ACCOMPANIED WITH AN APPLICATION FOR
23 COURT-ORDERED EVALUATION."

24 Between lines 37 and 38, insert:

25 "E. FOR THE PURPOSES OF THIS SECTION:

26 1. "LICENSED BEHAVIORAL HEALTH PROVIDER" MEANS ANY OF THE FOLLOWING:

27 (a) A PERSON WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 33 AND
28 WHOSE SCOPE OF PRACTICE ALLOWS THE PERSON TO EITHER:

29 (i) INDEPENDENTLY ENGAGE IN THE PRACTICE OF BEHAVIORAL HEALTH.

30 (ii) EXCEPT FOR A LICENSED SUBSTANCE ABUSE TECHNICIAN, ENGAGE IN THE
31 PRACTICE OF BEHAVIORAL HEALTH UNDER DIRECT SUPERVISION.

32 (b) A PSYCHIATRIST.

1 (c) A PSYCHOLOGIST WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER
2 19.1.

3 (d) A REGISTERED NURSE PRACTITIONER WHO IS LICENSED PURSUANT TO
4 TITLE 32, CHAPTER 15 AND WHO IS CERTIFIED AS AN ADULT PSYCHIATRIC AND
5 MENTAL HEALTH NURSE.

6 2. "PRACTICE OF BEHAVIORAL HEALTH" HAS THE SAME MEANING PRESCRIBED
7 IN SECTION 32-3251."

8 Page 2, line 2, after "PERSON" strike remainder of line

9 Strike lines 3 and 4, insert "SHALL PAY ALL OR SUCH PORTION OF THE ESTABLISHED
10 CHARGES AS THE PERSON CAN AFFORD. IF THE PERSON IS INDIGENT, CHARGES MAY
11 NOT BE MADE AGAINST THE PERSON."

12 Amend title to conform

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