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CHAPTER 51

STATE MENTAL HEALTH ACT

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51.001 Definitions. As used in this chapter:

(1) "Mental illness" means as defined in s. 51.75; "mental deficiency" means as defined in s. 51.75; and "mental infirmity" means senility.

(2) "County hospital" means a hospital for mental disturbances established pursuant to s. 51.25 and the county mental health center, south division, established under s. 51.24.

(3) "State hospital" means any of the institutions operated by the department for the purpose of providing diagnosis, care or treatment, for mental or emotional disturbance or mental deficiency and includes, but is not limited to, mental health institutes.

(6) (a) "Allowable per capita cost", as applied to care furnished during the 1971-72 fiscal year, means 110% of the audited individual average per capita cost for care furnished during the 1970-71 fiscal year.

(b) "Allowable per capita cost", as applied to care furnished during the 1972-73 fiscal year and thereafter, means 110% of the audited allowable per capita cost for care furnished during the previous fiscal year.

(7) "Mental health institute" means any institution operated by the department for research, specialized psychiatric services, and which is responsible for consultation, quality control and monitoring of county programs.

History: 1971 c. 125; 1973 c. 90.

51.002 Care and custody of committed persons. (1) Any person committed under this chapter shall be committed under the care and custody of a board established under s. 51.42 or 51.437, or the department if the department finds such person to be a nonresident of this state.

(2) Voluntary admission under this chapter shall be through a board established under s. 51.42 or 51.437 or through the department if the department finds such person to be a nonresident of this state.

History: 1973 c. 90, 333

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51.005 Purpose of chapter. (1) PURPOSE. It is the purpose of this chapter to provide for care and treatment in state and county hospitals for persons who by reason of mental illness, infirmity or deficiency are in need of care and treatment not feasible in their own homes or in private facilities.

(2) LEGAL EFFECT OF HOSPITALIZATION. Hospitalization under this chapter, whether by voluntary admission or commitment, is not an adjudication of legal incompetency, but merely raises a rebuttable or disputable presumption of incompetency while the patient is under the jurisdiction of hospital authorities.

51.01 Procedure to determine mental condition. (1) APPLICATION TO COURT. (a) Written application for the mental examination of any person (herein called "patient") believed to be mentally ill, mentally infirm or mentally deficient, and for his commitment, may be made to the county court of the county in which the patient is found, by at least 3 adult residents of the state, one of whom must be a person with whom the patient resides or at whose home he may be or a parent, child, spouse, brother, sister or friend of the patient, or the sheriff or a police officer or public welfare or health officer. However, if the patient is under 18 years of age, the application shall be made to the juvenile court of the county in which such minor is found.

(b) If the judge of the county court is not available, the application may be made to any court of record of the county.

(2) APPOINTMENT OF EXAMINING PHYSICIANS. (a) On receipt of the application the court shall appoint 2 duly licensed reputable physicians to personally examine the patient, one of whom, if available, shall be a physician with special training in psychiatry, and who are so registered by the court on a list kept in the clerk's office, and neither of whom is related by blood or marriage to the patient or has any interest in his property. The court may, by attachment for the person of the patient, compel him to submit to the examination of the physicians at a specified time and place.

(b) The examining physicians shall personally observe and examine the patient at any suitable place and satisfy themselves as to his mental condition and report the result to the court, in writing, at the earliest possible time or the time fixed by the court.

(3) FORMS. The department shall prescribe forms for the orderly administration of ch. 51 and furnish such forms to the county courts and to the several institutions. A substantial compliance with prescribed forms is sufficient.

(4) REPORT OF EXAMINING PHYSICIANS. The examining physicians, as part of their report, shall make and file substantially the following affidavit:

We, ... and ...., the examining physicians, being severally sworn, do certify that we have with care personally examined [insert name of person examined] now at ...... in said county, and as a result of such examination we hereby certify (a) that he is mentally ill [or mentally infirm or mentally deficient] or that he is not mentally ill [or mentally infirm or mentally deficient]; and (b) that he is [or is not] a proper subject for custody and treatment; that our opinion is based upon the history of his case and our examination of him; that the facts stated and the information contained in this certificate and our report are true to the best of our knowledge and belief. We informed the patient that he was examined by us as to his mental condition, pursuant to an application made therefor, and of his right to be heard by the court.

Involuntary civil commitment procedures under this chapter held invalid. Lessard v Schmidt, 349 F Supp. 1078.

51.02 Procedure to determine mental condition (continued). (1) NOTICE OF HEARING. (a) On receipt of the application or of the report of the examining physicians, the court shall appoint a time and place for hearing the application and shall cause notice thereof to be served upon the patient under s. 262.06 (1) or (2), which notice shall state that application has been made for the examination into his mental condition (withholding the names of the applicants) and that such application will be heard at the time and place named in the notice; but if it appears to the satisfaction of the court that the notice would be injurious or without advantage to the patient by reason of his mental condition, the service of notice may be omitted. The court may, in its discretion, cause notice to be given to such other persons as it deems advisable. If the notice is served the court may proceed to hold the hearing at the time and place specified therein; or, if it is dispensed with, at any time. The court may, by attachment for the person of the patient, cause him to be brought before the court for the hearing.

(b) The court shall determine whether the patient is a war veteran. If he is, the court shall promptly notify the department of veterans affairs, and in the event of commitment, it shall notify the nearest U.S. veterans' administration facility of the commitment.

(2) HEARING. At the hearing any party in interest, upon demand made to the judge a reasonable time in advance of the hearing, may examine the physicians and other witnesses, on oath, before the court and may offer evidence. At the opening of the hearing the judge shall state to the patient, if present, in simple, nontechnical

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language the purpose of the examination and his right to be heard and to protest and oppose the proceedings and his commitment; but where it is apparent to the judge that the mentality of the patient is such that he would not understand, he may omit such statement. The hearing may be had in the courtroom or elsewhere and shall be open only to persons in interest and their attorneys and witnesses. Before making the court's decision the judge shall personally observe the patient.

(3) DISTRICT ATTORNEY TO HELP. If requested by the judge, the district attorney shall assist in conducting proceedings under this chapter.

(4) APPOINTMENT OF GUARDIAN AD LITEM. At any stage of the proceedings, the court may, if it determines that the best interest of the patient requires it, appoint a guardian ad litem for him.

(5) COURT'S DECISION. At the conclusion of the hearing the court may:

(a) Discharge the patient if satisfied that he is not mentally ill or infirm or deficient, so as to require care and treatment, or

(b) Order him detained for observation if in doubt as to his mental condition, or

(c) Order him committed if satisfied that he is mentally ill or infirm or deficient and that he is a proper subject for custody and treatment, or

(d) In case of trial by jury, order him discharged or committed in accordance with the jury verdict.

51.03 Jury trial. If a jury is demanded by the alleged mentally ill, infirm or deficient patient or by a relative or friend in his behalf, before commitment, the court shall direct that a jury of 6 people be drawn to determine the mental condition of the patient. The procedure shall be substantially like a jury trial in a civil action. The judge may instruct the jurors in the law. No verdict shall be valid or received unless agreed to and signed by at least 5 of the jurors. At the time of ordering a jury to be summoned, the court shall fix the date of the hearing, which date shall be not less than 30 days nor more than 40 days after the demand for a jury is made. In the meantime the court may order the patient temporarily detained in a designated public institution, until the date of hearing, for observation. The court shall submit to the jury the following form of verdict:

STATE OF WISCONSIN
.... County
Members of the Jury:

(1) Do you find from the evidence that the patient .... (insert his name) .... is mentally ill or mentally infirm or mentally deficient? Answer "Yes" or "No".

Answer: ....

(2) If you answer the first question "Yes", then do you further find from the evidence that said patient is a proper subject for custody and treatment? Answer "Yes" or "No".

Answer: ....

(Signatures of jurors who agree)

51.04 Temporary detention of persons. (1) EMERGENCY PROVISIONS. The sheriff or any other police officer may take into temporary custody any person who is violent or who threatens violence and who appears irresponsible and dangerous. The sheriff or other police officer shall take temporary custody of any person when it appears by application delivered to such officer and executed by 3 persons, one of whom shall be a physician licensed to practice medicine and surgery in this state, that such person has a mental illness, is in need of hospitalization, and is irresponsible and dangerous to himself or others. The application shall set forth the name and address of the patient together with a statement by the physician which describes the illness and reasons why the patient is considered irresponsible and dangerous. This is an emergency provision intended for the protection of persons and property. Such person may be kept in custody until regular proceedings are instituted to cope with the case, but not exceeding 5 days. The application provided for herein shall be presented by such sheriff or other police officer to the county court of the county in which the patient is found, and shall be considered an application for mental examination within the meaning of s. 51.01 (1) (a).

(2) FOR SAFETY. If it appears from the application for his mental examination or otherwise that safety requires it, the court or a court commissioner if the judge is not available may order the sheriff or other police officer who has such person in custody to confine him in a designated place for a specified time, not exceeding 10 days.

(3) MEDICAL OBSERVATION. Upon receipt of the report of the physicians the court may order his detention in a designated institution for a stated period not exceeding 30 days. Upon the application of the superintendent of the institution or any interested person the court may extend the detention period, but the temporary detention shall not exceed 90 days in all.

(4) TEMPORARY CUSTODY. Temporary custody or detention shall be in a hospital where there are suitable psychiatric facilities and which has been approved by the court, or if there is no such hospital in the county, in a place of temporary detention until arrangements can be made for transportation to a facility where psychiatric services are available. If a facility other than a hospital is used, the patient shall be

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under the care of a physician during the period of temporary detention.

(5) TREATMENT. When a patient is temporarily detained in a state hospital for the mentally ill, the superintendent thereof may cause the patient to be treated during the detention period if in his judgment such treatments are necessary for the patient's health.

It is abuse of process to use this section to prevent a minor student from leaving school until her father could be consulted. Maniaci v. Marquette University, 50 W (2d) 287, 184 NW (2d) 168.

Under 51.04 (5), Stats. 1969, only the superintendent of a state hospital may cause a person under temporary detention to be treated during the detention period. Superintendents of county hospitals may not do so. 58 Atty. Gen. 6.

51.05 Commitments. (1) TO INSTITUTION. If the court or jury finds that the patient is mentally ill or infirm and should be sent to a hospital for the mentally ill or infirm, the court shall commit him to a hospital, stating in the commitment whether the notice specified in s. 51.02 was served, and if not, the reasons. If it is found that the patient is mentally infirm, commitment may be to the facility mentioned in sub. (5). If it is found that the patient is mentally deficient and should be committed, the commitment shall be to the northern colony and training school or the southern colony and training school; but the department may divide the state by counties into 2 districts and thereafter commitments from any county shall be to the colony and training school for the district in which the county is situated, unless the department consents to a different commitment.

(2) TO WHAT DISTRICT. Commitments of mentally ill or infirm persons from any county (other than a county having a population of 500,000) of persons whose mental illness has not become chronic, or who do not have legal settlement in the county, and commitments of chronic cases from a county not having a county hospital, shall be to the state hospital for the district in which the county is situated, unless the department consents to a different commitment.

(3) LEGAL SETTLEMENT RULE. If the patient has a legal settlement in a county which has a county hospital and the court is satisfied that the mental illness or infirmity of the patient is chronic, it may commit him to the county hospital. If he has a legal settlement in a county having a population of 500,000, the commitment shall be to the county mental health center, north division or south division, having due regard to the condition of the patient and the nature of his malady. If the patient has no legal settlement he shall be committed to a state hospital. The judge shall, in a summary manner, ascertain the place of the patient's legal settlement. The judge's finding shall be included in the order of commitment.

(4) TO AWAIT LEGAL PAPERS. If a patient is brought to or applies for admission to any hospital without a commitment or application or under a void or irregular commitment or application, the superintendent may detain him not exceeding 10 days to procure a valid commitment or application or for observation. If the patient needs hospitalization, in the opinion of the superintendent, he may make the application provided for in section 51.01; and thereafter the proceedings shall be as upon other applications. His signature to the application shall suffice. The superintendent's application shall be made in the county where the institution is located.

(5) MENTALLY INFIRM FACILITY. The county board may provide a facility in the county home, infirmary or hospital for the care and treatment of mentally infirm persons. Section 46.17 shall apply to such facilities.

51.06 Execution of commitment; expenses. (1) The sheriff and such assistants as the court deems necessary shall execute the commitment; but if any competent relative or friend of any patient so requests, the commitment may be delivered to and executed by him. For such execution he shall be entitled to his necessary expenses, not exceeding the fees and expenses allowed to sheriffs. The officer, unless otherwise ordered by the court, shall on the day that a patient is adjudged mentally ill or infirm or deficient, deliver him to the proper institution. Every female patient transported to a hospital shall be accompanied by a competent woman. The court shall prescribe the kind of transportation to be used. Whenever ordered by the court, the persons executing the commitment shall wear civilian clothes.

(2) Copies of the application for examination and of the report of the examining physicians and the adjudication and the commitment shall be delivered to the person in charge of the institution to which the patient is committed. Names of applicants shall be omitted from such copies.

51.065 Alternate procedure for commitment of mentally deficient persons. (1) In all cases of mental deficiency which have been definitely and conclusively established by 2 physicians licensed in Wisconsin specializing preferably in pediatric or psychiatric medicine, whose opinions concur with regard to said mental deficiency, the physicians may, upon receiving a written request from the parents or surviving parent or general guardian of such person, issue a report on a form furnished by the

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court, which report shall have appended to it the affidavit of the physicians that they have personally examined the patient; that in their opinion he is mentally deficient and a proper subject for custody and treatment; that the parents or surviving parent or general guardian of such person have requested in writing that he be committed to the southern or northern colony and training school.

(2) The report of the 2 examining physicians shall contain a recommendation that the mentally deficient person be committed to the northern or southern colony and training school, and shall be forwarded by the physicians to the county court of the county in which the patient is found. In the case of minors under the age of 18 years, the report and recommendation of the examining physicians shall be forwarded to the juvenile court.

(3) The court to whom said report and recommendation is forwarded may enter same in the records of his court and may issue an order of commitment of the patient to the southern or the northern colony and training school, which order will authorize the admission of the mentally deficient patient to the specified colony and training school forthwith upon issuance. In all cases in which a parent supervised the person alleged to be mentally deficient, the court may, and in cases in which neither parent supervises, but there is a duly appointed general guardian, the court shall appoint a guardian ad litem in advance of making any entry in the court records, and in advance of issuing an order of commitment.

51.07 Fees of examining physicians, witnesses; expenses of proceedings. (2) Unless previously fixed by the county board of the county in which the examination is held, the examining physician shall receive a fee as fixed by the court, for participation in commitment proceedings, and 10 cents per mile for necessary travel.

(3) Witnesses subpoenaed before the court shall be entitled to the same fees as witnesses subpoenaed before the court in other cases. Such fees and charges shall be paid by the county.

(4) Expenses of the proceedings, from the presentation of the application to the commitment or discharge of the patient, including a reasonable charge for a guardian ad litem, shall be allowed by the court and paid by the county from which the patient is committed or discharged, in the manner that the expenses of a criminal prosecution are paid, as provided in s. 59.77.

(5) If the patient has a legal settlement in a county other than the county from which he is committed or discharged, that county shall reimburse the county from which he was committed or discharged all such expenses. The county clerk on July 1 shall submit evidences of payments of all such proceedings on nonresident payments to the department, which shall certify such expenses for reimbursement in the form of giving credits to the committing or discharging county and assessing such costs against the county of legal settlement or against the state at the time of the annual audit.

51.075 Right to reevaluation. With the exception of alcoholic commitments under s. 51.45 (13), every patient committed involuntarily under this chapter to any state or county hospital shall be reevaluated by the medical staff or visiting physician within 30 days after his commitment, and within 6 months after the initial reevaluation, and thereafter at least once each 12 months for the purpose of determining whether such patient has made sufficient progress to be entitled to release or discharge, and the findings of each such reevaluation shall be written and placed with his hospital record and a copy sent to the committing court.

History: 1973 c. 198.

51.09 Drug addicts. (1) HEARING. (a) If it appears to any court of record, by an application of 3 reputable adult residents of the county, that a resident of the county or person temporarily residing therein is addicted to the use of a controlled substance under ch. 161 and in need of confinement or treatment, the court shall fix a time and place for hearing the application, on reasonable personal notice to the person in question, requiring him to appear at the hearing, and shall summarily hear the evidence. The court may cause notice to be given to such other persons as it deems advisable. The court may, by attachment for the person, require the sheriff or other police officer to take the alleged drug addict into custody, detain him pending the hearing (but not to exceed 3 days) and bring him before the court at the hearing. The court may require notice to be given to known relatives of the person.

(b) At such hearing if the court finds that such person is addicted to the use of a controlled substance under ch. 161, and requires confinement or treatment, or that it is necessary for the protection of himself or the public or his relatives that he be committed, he may be committed to the county hospital or to the county reforestation camp or to the rehabilitation facilities established pursuant to s. 59.07 (76) or to Winnebago or Mendota mental health institute or in counties having a population of 500,000 or more, to the rehabilitative facilities of the house of correction

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of such county. At the hearing the court shall determine the person's legal settlement, and the county of such settlement shall be liable over for his maintenance and treatment. The provisions against detaining patients in jails shall not apply to persons addicted to controlled substances, except in case of acute illness.

(2) COMMITMENT. The commitment of a drug addict shall be for such period of time as in the judgment of the superintendent of the institution may be necessary to enable him to take care of himself. He shall be released upon the certificate of the superintendent that he has so recovered. When he has been confined 6 months and has been refused such a certificate he may obtain a hearing upon the question of his recovery in the manner and with the effect provided for a reexamination under s. 51.11.

(3) VOLUNTARY PATIENTS. Any adult resident of this state who believes himself to be a drug addict may make a signed application to a court of record of the county where he resides to be committed to a hospital. His application must be accompanied by the certificate of a resident physician of the county that confinement and treatment of the applicant are advisable for his health and for the public welfare. The court may act summarily upon the application and may take testimony. If it finds that the applicant satisfies the conditions of this section, it shall commit him as it would had there been an application under sub. (1), including a finding as to legal settlement.

(4) CONDITIONAL RELEASE. A conditional release may be granted to the drug addict under s. 51.13, except that in commitments to the rehabilitative facilities of the house of correction in counties having a population of 500,000 or more the superintendent of said institution has the same authority as superintendents under s. 51.13 but he shall exercise same only upon written recommendation of the visiting physician.

(5) TREATMENT OF DRUG ADDICTS AND ALCOHOLICS. The department may provide for treatment for drug addicts and alcoholics at the mental health institutes and such treatment shall not exceed the scope of service authorized by law at the mental health institutes.

History: 1971 c. 219; 1973 c. 90 s. 560 (3); 1973 c. 198, 333, 336.

51.095 Alternate procedure. Upon filing of an application or petition under s. 51.01 or 51.09, the court may elect to treat the petition as an application for protective service or placement under ch. 55 if commitment is not warranted.

History: 1973 c. 284.

51.10 Voluntary admissions. (1) Any resident adult of this state, believing himself to be suffering from any mental illness, infirmity or deficiency, upon his written application stating his condition, supported by the certificate of his physician, based upon personal examination, may be admitted as a voluntary patient to any suitable state or county institution without an order of the court and in the discretion of the superintendent. Any resident minor may be admitted upon application signed by a parent with actual custody or the legal guardian of the person of such minor, supported by a like certificate.

(1a) A resident minor who has been referred to the children's consultation service at a mental health institute under s. 46.041, may be admitted to any suitable state or county institution, in the discretion of the superintendent, for study and diagnosis on a voluntary application signed by his parent, custodian or guardian.

(2) The superintendent shall forward to the county judge of the patient's residence a copy of his application. The judge shall determine the patient's legal settlement and certify the same to the superintendent. The county of his legal settlement (if he has one) shall be charged with his care, unless his care is privately paid for. A voluntary patient shall be subject to the same laws, rules and regulations as a regularly committed patient, except that he may leave at any time if, in the judgment of the superintendent, he is in fit condition, on 5 days' written notice to the superintendent of his intention to leave, given by the patient or his guardian. The patient shall not be detained over 35 days after such notice is given. If, in the opinion of the superintendent, the patient needs further hospitalization, he may make application to the county where the institution is located, as provided in s. 51.01; and thereafter proceedings shall be as upon other applications. The superintendent's signature on the application shall suffice.

(3) If a voluntary patient is found to be a nonresident of this state and does not apply for a discharge, the superintendent shall make application for commitment to the county court of the county where the institution is located, as provided in s. 51.01. The application of the superintendent alone is sufficient.

(4) If at any stage of an inquiry under this chapter, the patient prefers to enter an institution voluntarily, the court may permit him to become a voluntary patient pursuant to sub. (1) upon his signing an application therefor in the presence of the judge; and the judge may continue the hearing or dismiss the proceedings and shall notify the institution of his action.

History: 1973 c. 90 s. 560 (3).

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51.11 Re-examination of patients. (1) Except as otherwise provided in ss. 51.21, 971.14 and 971.17, any person adjudged mentally ill or infirm or deficient, or restrained of his liberty because of alleged mental illness or infirmity or deficiency, may on his own verified petition or that of his guardian or some relative or friend have a re-examination before any court of record, either of the county from which he was committed or in which he is detained.

(2) The petition shall state the facts necessary to jurisdiction, the name and residence of the patient's general guardian, if he has one, and the name, location and superintendent of the institution, if the person is detained.

(3) The court shall thereupon appoint 2 disinterested physicians, each having the qualifications prescribed in s. 51.01, to examine and observe the patient and report their findings in writing to the court. For the purpose of such examination and observation the court may order the patient confined in a convenient place as provided in s. 51.04.

(3a) If the patient is under commitment to a hospital, a notice of the appointment of the examining physicians and a copy of their report shall be furnished to such hospital by the court.

(4) Upon the filing of the report the court shall fix a time and place of hearing and cause reasonable notice to be given to the petitioner and to the hospital and to the general guardian of the patient, if he has one, and may notify any known relative of the patient. The provisions of s. 51.02, so far as applicable, shall govern the procedure.

(5) If the court determines that the patient is no longer in need of care and treatment it shall enter judgment to that effect and order his discharge; if it shall not so determine, it shall order him returned under the original commitment, except that if he is at large on conditional release or leave, the court may permit him so to continue. If a jury trial is demanded, the procedure shall, as near as may be, be the same as in s. 51.03, and the court's order or determination shall be in accordance with the jury's verdict.

(6) All persons who render services in such proceedings shall receive the same compensation and all expenses of such proceedings shall be paid and adjusted as provided in section 51.07.

(7) When a proceeding for retrial or re-examination is not pending in a court of record and a jury trial is not desired by the persons authorized to commence such proceeding, the department may, on application, determine the mental condition of any patient committed to any institution under this chapter, and its determination shall be recorded in the county court of the county in which the patient resides or from which he was committed, and such determination shall have the same effect as though made by the county court. The department may also, with or without application, if it has reason to doubt the mental illness or infirmity of any such patient, require the court of the county from which he was committed or in which he is detained to determine his mental condition pursuant to this section.

(8) Subsequent re-examinations may be had at any time in the discretion of the court but may be compelled after one year of the preceding one.

51.12 Transfer and discharge of patients; mentally ill veterans. (1) Patients may be transferred by the department from any state hospital or county hospital or facility to any other state hospital or county hospital or facility when the transfer would be for the best interest of the patient or for the benefit of other patients or to prevent the exclusion of patients whose cases are of a more hopeful character. This subsection shall not apply to veterans who are patients in the Wisconsin memorial hospital.

(2) The department may, if any county has not provided for the proper care of its mentally ill or infirm, direct their removal to the hospital or facility of any other county possessing suitable accommodations; and such removal shall be made at the expense of the county from which such patients are removed.

(3) The department may, with the approval of the committing court, transfer to any county hospital any inmate of the central state hospital committed under s. 971.14 or 971.17, and may, without such approval, transfer to a county hospital any patient transferred to the central state hospital whose term has expired, if, in its opinion, the mental condition of such inmate or patient is chronic and he can be properly cared for in a county hospital.

(4) The superintendent of any state or county hospital or mental health center, with the approval of the department, may at any time discharge any patient (including those on conditional release) who in his judgment is recovered, or who is not recovered but whose discharge will not be detrimental to the public welfare or injurious to the patient. In counties having a population of 500,000 or more, the approval of the department to discharge a patient is not required.

(5) When the department has notice that any person is entitled to receive care and support in a veterans' administration facility, it shall, in cooperation with the department of veterans affairs, procure his admission to said facility.

(6) If the department, acting under s. 51.11, determines that any person in any state or county institution under its jurisdiction is mentally

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deficient, it may transfer him to an institution mentioned in s. 51.22.

(7) The department shall advise the department of veterans affairs of the transfer or discharge or conditional release of any veteran.

(8) The superintendent of any state hospital or county hospital referred to in s. 51.13 (1) may provide sufficient funds for incidental expenses for patients who are discharged, placed on conditional release or paroled in accordance with ss. 51.11 (5), 51.12 (4), 51.13 (1) and 51.21 (6). Such funds shall be given under rules promulgated by the department.

History: 1973 c. 333.

51.125 Transfer for better placement. (1) If it appears to the department at any time that a patient should have been committed to a different institution, it may transfer him thereto. The department shall notify the committing court of such transfer.

(2) If a change in the patient's condition makes it advisable that he be transferred to a different institution, the department may transfer him.

51.13 Conditional release of patients; presumption of competency and discharge by lapse of time. (1) The superintendent of the Mendota mental health institute and of the Winnebago mental health institute and of the Milwaukee county mental health center, north division and south division, may grant any patient a conditional release if in his opinion it is proper to do so.

(2) The superintendent of any county hospital or home may, upon the written recommendation of the visiting physician, grant any patient a conditional release for such time and under such conditions as the physician directs, except patients committed under ss. 971.14 and 971.17.

(3) Upon the expiration of one year from the granting of a conditional release the authority of the superintendent to require the patient's return shall end, and the patient shall be presumed competent.

History: 1973 c. 90 s. 560 (3).

51.135 Return by sheriff. If it becomes unsafe or improper to allow any patient on conditional release, parole or temporary discharge to remain at large, the superintendent of the institution from which such patient was released shall require his return to such institution. It is the duty of the sheriff of the county in which such patient is found, and upon request of the superintendent of the institution from which such patient was released, to take charge of and return such patient to such institution, and the costs incident to such return shall be paid out of the institution's operating fund and be charged back to the county of the patient's legal settlement.

51.14 Reports to county court; record. When any person is committed to any hospital or home from any county other than the county of his legal settlement, the committing court shall within 10 days forward a copy of the application and all other proceedings to the county court of the county of legal settlement. The superintendent of the hospital or home to which the patient is committed shall immediately notify the county court of the county of his legal settlement of the date on which the patient arrived. The superintendent shall also notify such court whenever any patient dies, is discharged, transferred, escapes, is conditionally released or returns from such release. In all cases of discharge or conditional release the hospital shall mail such notice to the county judge of the county of commitment not less than 2 days prior to the discharge or release of the patient. The court shall keep a record of the facts so reported.

51.15 Mental health institutes; districts. The mental health institute located at Mendota is known as the "Mental Health Institute-Mendota" and the mental health institute located at Winnebago is known as the "Mental Health Institute-Winnebago". The department shall divide the state by counties into 2 districts, and may change the bounds of these districts, arranging them with reference to the number of patients supposed to be in them and the capacity of the institutes and the convenience of access to them.

History: 1973 c. 90.

51.155 Admissions to mental health institutes. The department shall not accept for admission patients from counties in which a board is established under s. 51.42 except where the board, as provided in s. 51.42 (9), authorizes such care. Patients committed to the department under ss. 971.14, 971.17, 975.01, 975.02 and 975.06 shall not be subject to this section.

History: 1973 c. 90.

51.16 Superintendent; oath and duties, subpoenas on. (1) The superintendent of each said hospital shall take and file the official oath, and shall devote all his time and attention to his official duties.

(2) The superintendent shall not be compelled to obey the subpoena of any court in any case, civil or criminal, if he shall file with the judge or clerk his affidavit that to obey the same would be seriously detrimental and hazardous to the

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welfare of the hospital under his charge, except when an accusation of murder is to be tried; nor in such case unless the court shall make a special order therefor, and the subpoena, with a memorandum thereof indorsed thereon, be served one week before the time when he shall be required to appear; but no superintendent shall be entitled in any case to make and file such affidavit, who shall, upon tender of the usual fees of witnesses in courts of record, refuse to be present and to give his deposition at his office, usual place of business, or usual place of abode; and any superintendent so present and giving his deposition who shall be detained 4 hours from the time fixed for the taking thereof or from the time to which the taking of the same may have been adjourned may make affidavit that further detention would be seriously detrimental or hazardous to the welfare of the persons or business in his charge whereupon the officer before whom such deposition is being given shall adjourn further proceedings thereon to a future day.

51.17 Private pay for patients. Any person may pay (in whole or in part) for the maintenance and clothing of any mentally ill or infirm or deficient person or inebriate or drug addict, at any institution for the treatment of persons so afflicted; and his account shall be credited with the sums paid. He may also be likewise provided with such special care or attendant as is agreed upon with the superintendent, upon monthly payment in advance of the charges therefor.

51.18 Family care. (1) The department, with the approval of the appropriate s. 51.42 or 51.437 board, may place an institute or colony patient in a suitable family boarding home upon such terms and conditions as it determines, if it considers that such course would benefit the patient. The cost of the supervision and maintenance of any patient so boarded out shall not exceed the average per capita cost of his maintenance in the institute or colony. Beginning July 1, 1975, such costs less applicable collections shall be charged to the respective s. 51.42 or s. 51.437 board. The department may visit and investigate such home and may return the patient to the institute or colony or place him in another home when deemed advisable.

(2) A board established under s. 51.42 or 51.437 may, with the approval of the department, place any patient in a suitable family boarding home upon such terms and conditions as it determines, if it considers that such course would benefit the patient. Such board will be charged with the costs of care in accordance with s. 46.036. The department may visit and investigate such home and may, with the approval of the appropriate board, cause the patient to be placed in another facility when deemed advisable.

History: 1973 c. 90, 333.

51.19 Child born in hospital. A child born in any state or county hospital or state colony and training school shall be promptly removed therefrom by the mother's friends or by the department. The superintendent shall petition the juvenile court of the county in which the institution is located to make such removal, and until the child is removed the superintendent shall make suitable provision for its care and comfort, and charge all expenses to the department. The court shall notify the juvenile court of the county of the mother's legal settlement of the filing of such petition.

History: 1973 c. 90.

51.20 Records of patients. The superintendent of each state hospital shall keep such records and make such reports as the rules and regulations of the department require.

51.21 Central state hospital. (1) USE. The state hospital at Waupun is known as the "Central State Hospital"; and shall be used for the custody, care and treatment of persons committed or transferred thereto pursuant to this section and ss. 971.14 and 971.17. Whenever the superintendent is not a psychiatrist, all psychiatric reports, testimony or recommendations regarding the mental condition of a patient or prisoner shall be made by a staff psychiatrist of the hospital or the division of mental hygiene.

(2) TRANSFERS. The department may transfer to the central state hospital any male patient confined in a state or county hospital or the northern, central or southern colony and training school, if his or the public welfare requires it or if he is dangerous to himself or others or to property; and it may return him to the institution from which he came if in its judgment he has recovered sufficiently to warrant his return.

(3) REMOVALS. (a) When the physician of a state prison or county jail or a psychiatrist of the department reports in writing to the officer in charge thereof that any prisoner is, in his opinion, mentally ill or infirm or deficient, such officer shall make a written report to the department. Thereupon the department may transfer the prisoner (if male) to the central state hospital or (if female) to the Winnebago mental health institute; and if the prisoner's term has not expired, the department may order his return if it is satisfied that he has recovered. When a prisoner is removed to central state

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hospital or Winnebago mental health institute, the superintendent thereof may cause such treatments to be administered as in his judgment are necessary or beneficial.

(b) The superintendent of the hospital shall receive the prisoner and shall, within a reasonable time before his sentence expires, make a written application to the county court where the hospital is located for an inquiry as to the prisoner's mental condition. Thereafter the proceeding shall be as upon application made under s. 51.01, but no physician connected with a state prison, Winnebago mental health institute, central state hospital or county jail shall be appointed as an examiner. If the court is satisfied that the prisoner is not mentally ill or infirm or deficient, it may dismiss the application and order the prisoner returned to the institution from which transferred. If the court finds that the prisoner is mentally ill or infirm or deficient, it may commit the prisoner to the central state hospital or commit her to the Winnebago mental health institute.

(c) The provisions of section 51.07 relating to fees and costs shall apply.

(d) When such prisoner is found mentally ill or infirm or deficient, the superintendent of the institution shall retain him until he is legally discharged or removed.

(e) The provisions of s. 51.11 relating to re-examination shall apply to such prisoner if found to be mentally ill, infirm or deficient, except that the application shall be made to the court which made such finding, or if he is detained by transfer under sub. (2), to the county court of the county in which he is detained. If upon such rehearing he is found not to be mentally ill, infirm or deficient, he shall be returned to the prison unless his term has expired. If his term has expired he shall be discharged. The time spent at the central state hospital or Winnebago mental health institute shall be included as part of the sentence already served.

(f) Should the prisoner remain at the hospital after expiration of his term he shall be subject to the same laws as any other patient.

(4) STATUTES APPLICABLE. All statutes relating to state hospitals, except s. 51.12 (1), (2), (4) and (5), are applicable to the central state hospital. Sections 51.13 (1) and (3) and 51.22 (4) are applicable only to patients committed under ch. 51 and to patients whose prison sentences have expired.

(5) OTHER PRISONERS SUBJECT TO RULES. Persons required to be committed or transferred to the central state hospital, but who remain in any other state hospital because sufficient provision has not been made for them at the central state hospital, shall be subject to the statutes governing patients of the central state hospital.

(6) PAROLES. If in the judgment of the superintendent of the central state hospital or Winnebago mental health institute or the Milwaukee county mental health center, north division or south division, any person committed under s. 971.14 or 971.17 is not in such condition as warrants his return to the court but is in a condition to be paroled under supervision, the superintendent shall report to the department and the committing court his reasons for his judgment. If the court does not file objection to the parole within 60 days of the date of the report, the superintendent may, with the approval of the department, parole him to a legal guardian or other person, subject to the rules of the department.

(7) TRANSFER FOR MEDICAL CARE. In order to expeditiously provide hospitalization or emergency surgery and also proper security of the person, the department is given authority, regardless of any statutory provision to the contrary, to temporarily remove any patient or prisoner in need of hospitalization or emergency surgery to the hospital ward of the Wisconsin state prison. As soon as practical after completion of such necessary hospitalization or emergency surgery, the department shall return any such patient or prisoner to the central state hospital. The state charges shall continue during the period of such transfer.

(8) TREATMENT REVIEW. The department shall review the treatment needs of all patients and inmates committed or transferred to central state hospital within 30 days of the individual's arrival at the facility. Such review shall be conducted in consultation with Mendota and Winnebago mental health institute staff for the purpose of determining the most appropriate place and type of treatment for the patient or inmate. Placement of such patient or inmate shall be made with due regard for the welfare and safety of the individual, the public and employes and patients at the affected institutions.

History: 1973 c. 90 ss. 285m, 285p, 560 (3).

51.215 Transfer of mentally ill children from schools for boys and girls. (1) When the physician of the Wisconsin school for boys or of the Wisconsin school for girls, or a psychiatrist of the department, reports in writing to the superintendent of the school that any person confined therein is, in his opinion, mentally ill, the superintendent shall make a written report to the department. Thereupon the department may transfer the person to a state hospital for the mentally ill. The department may order the return of the person to the school in the event

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that, before the expiration of his commitment, it is satisfied that he has recovered.

(2) Within a reasonable time before the expiration of such person's commitment, if he is still in the hospital, the superintendent of the hospital shall make an application under s. 51.01 to the court of the county in which the hospital is located, for an inquiry into the person's mental condition, and thereafter the proceedings shall be as in other applications under said section. The application of the superintendent of the hospital alone is sufficient.

51.22 Colonies and training schools. (1) PURPOSE. The purpose of the northern colony and training school, of the central colony and training school and of the southern colony and training school is to care for, train and have the custody of mentally deficient persons.

(2) SCHOOL ACTIVITIES. Each institution shall maintain a school department for the educable grades or classes; and a custodial facility for the helpless and lower types; and such other facilities as the welfare of the patients requires. The department shall establish vocational training therein.

(3) TRANSFERS. If any person is committed to a colony and training school, the department may transfer him to another colony and training school or to a county hospital; and any person so transferred may be returned.

(4) TEMPORARY DISCHARGE. The department may grant any patient a temporary discharge if, in its opinion, it is proper to do so. A board established under s. 51.42 or 51.437 may, upon the written recommendation of the visiting physician, grant any patient a temporary discharge. The superintendent of the central state hospital may, if he deems it proper to do so, grant any patient transferred to that institution from a colony or training school a temporary discharge and release him pursuant thereto without first returning the patient to the institution from which he came.

(5) PERMANENT DISCHARGE. The department, or a board established under s. 51.42 or 51.437, with the approval of the visiting physician, may permanently discharge from custody any mentally deficient person who has been on a temporary discharge and who has continued to demonstrate fitness to be at large. Notice of such permanent discharge shall be filed with the committing court by the department or the board. After permanent discharge, if it becomes necessary for such person to have further institutional care and treatment, a new commitment must be obtained, following the procedure for original commitment.

(6) TRANSFER TO WISCONSIN CHILD CENTER. If it appears that the best interests of a patient of a colony and training school will be served, the department may transfer him to the Wisconsin child center. The department may likewise return him to the school from which he was transferred or release him under such conditions as may be prescribed.

History: 1973 c. 90.

51.225 Uniforms for psychiatric officers. The department shall furnish and, from time to time replace, a standard uniform to be prescribed by the department including items of clothing, shoulder patches, collar insignia, caps and name plates to each psychiatric officer in the department who is required to wear such standard uniform.

51.23 Mentally deficient; examination; commitments. Sections 51.01 to 51.11, 51.125, 51.14, 51.16, 51.17, 51.19 and 51.215 shall govern the examination and commitment of mentally deficient persons to such colony and training schools, so far as may be applicable. In cases of alleged mental deficiency, one of the examiners under s. 51.01 (2) may be a clinical psychologist who has a doctorate degree in psychology and who has had 3 years of experience in clinical psychology. This amendment (1947) shall be effective as of July 1, 1946.

51.235 Psychiatric institute. (1) The psychiatric institute formerly at Mendota is designated as the Psychiatric Institute.

(2) The statutes relating to the commitment, custody, transfer, conditional release and discharge of mentally ill persons in state hospitals for the mentally ill are applicable to the psychiatric institute.

51.24 Milwaukee county mental health center. Any county having a population of 500,000 or more may, pursuant to s. 46.17, establish and maintain a county mental health center. The county mental health center, north division (hereafter in this section referred to as "north division"), shall be a hospital devoted to the detention and care of drug addicts, alcoholics and mentally ill persons whose mental illness is acute. Such hospital shall be governed pursuant to s. 46.21. Treatment of alcoholics at the north division is subject to approval by the department under s. 51.45 (8). The county mental health center, south division, shall be a hospital for the treatment of chronic patients and shall be governed pursuant to s. 46.21. The county mental health center established pursuant to this

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section is subject to rules adopted by the department concerning hospital standards.

History: 1971 c. 108 ss. 5, 6; 1971 c. 125 ss. 350 to 352, 523; 1971 c. 211; 1973 c. 90, 198.

Note: This section is printed as repealed and recreated by ch. 90 and as amended by ch. 198, laws of 1973. See 13.93 (2) (c).

51.25 County hospitals. Any county having a population of less than 500,000 may establish a hospital or facilities for the detention and care of mentally ill persons, alcoholics and drug addicts; and in connection therewith a hospital or facility for the care of cases afflicted with pulmonary tuberculosis. County hospitals established pursuant to this section are subject to rules adopted by the department concerning hospital standards, including standards for alcoholic treatment facilities under s. 51.45 (8).

History: 1971 c. 211; 1973 c. 198.

51.27 Tuberculous patients; segregation; transfers; state aid; free care. (1) The department shall make provision for the segregation of tuberculous patients in the state hospitals, and for that purpose may set apart one ward for male patients and one for female patients in said hospitals and equip said wards for the care and treatment of such patients. The department shall transfer from other parts of such hospitals patients who are likely to spread tuberculosis.

(2) (a) If any county operates a separate hospital or facility for the chronic tuberculous mentally ill or infirm or adult mentally deficient, the department may transfer thereto any mentally ill or infirm person or adult mentally deficient in any state or county hospital who is afflicted with pulmonary tuberculosis. The state shall be charged at the rate of $10 per week for each patient whose legal settlement is in the county which maintains the hospital and $20 per week for each other patient; and of the latter rate $10 for each patient shall be charged over to the county of his legal settlement. Such charges shall be adjusted as provided in s. 46.106. This amendment (1951) shall be effective as of July 1, 1950.

(b) Annually, in addition to the charges provided by par. (a) the difference between such aid and the actual per capita cost of care and maintenance of such tuberculous mental patients as determined by the department and department of revenue shall be charged to the county of the patient's legal settlement, or to the state if the patient has no legal settlement. For the fiscal year 1956-1957 and subsequent fiscal years the per capita cost of care and maintenance shall include a charge for depreciation of not more than 2% on all present sanatorium structures and attached fixtures erected or installed prior to January 1, 1937, and 5% on all additions to sanatorium structures and attached fixtures erected or installed after January 1, 1937; and that depreciation of equipment, furniture and furnishings, including X-ray equipment but not including structures and attached fixtures may be included at the rate of 10% per annum.

(c) Beginning with the first charge made for cost of care incurred after July 1, 1954, as provided in s. 46.106 the county may add 4 per cent to such charge to recover the costs to the county in carrying such charges.

(d) Beginning with the first charge made for cost of care incurred after July 1, 1954, as provided in s. 46.106 the county may add 10 per cent to such charge to generate sufficient earnings in addition to depreciation accruals to provide funds to cover replacement costs for buildings, fixtures and equipment as they are replaced.

(3) The provisions of s. 50.04 as to free care of patients apply to tuberculous mentally ill or infirm patients or adult mentally deficient, who satisfy the conditions of subs. (1) and (2).

History: 1971 c. 211 s. 124.

51.30 Records closed. The files and records of the court in proceedings under this chapter shall be kept in locked files and shall not be open to inspection except upon specific permission of the court. In any action or special proceeding in a court of record, such files and records shall be made available by special order of such court, if they are relevant to the issue and competent.

51.31 Mentally infirm or deficient persons, general provision. The provisions for commitment, rehearing, transfer, removal and discharge of mentally ill persons shall, so far as applicable, govern in the matter of mentally infirm and mentally deficient.

51.32 Nonresident escaped patients. The county court may, upon written request of the department, order the detention of any nonresident person who escaped from some mental institution of another state. Such detention shall be for a period not to exceed 30 days and may be extended by the court for an additional period if it is necessary to consummate the deportation of the escaped person.

51.33 Resident escaped patients, retaking. If any patient escapes from any institution for the mentally ill or mentally retarded, it is the duty of the sheriff of the county in which such patient is found, and upon request of the superintendent of the institution from which such patient has escaped, to take charge of and

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return such patient to the institution from which he escaped, and the costs incident to such return shall be paid out of the institution's operating funds and be charged back to the county of the patient's legal settlement.

51.35 Communications and packages. (1) COMMUNICATIONS. All communications addressed by a patient to the governor, attorney-general, judges of courts of record, district attorneys, the department or licensed attorneys, shall be forwarded at once to the addressee without examination. Communications from such officials and attorneys shall be delivered to the patient.

(2) PACKAGES AND COMMUNICATIONS TO PATIENTS. Communications and packages for or addressed to a patient may be examined before delivery; and delivery may be withheld if there is any good reason therefor in the opinion of the superintendent of the institution. This subsection does not apply to patients in approved treatment facilities under s. 51.45.

History: 1973 c. 198.

51.37 Outpatient services. (1) The department may establish a system of outpatient clinic services in any institution operated by the department.

(2) It is the purpose of this section to:

(a) Provide outpatient diagnostic and treatment services for patients and their families.

(b) Offer precommitment and preadmission evaluations and studies.

(3) The department may provide outpatient services only to patients contracted for with s. 51.42 and s. 51.437 boards in accordance with s. 46.03 (18), except for those patients whom the department finds to be nonresidents of this state. The full and actual cost less applicable collections of such services contracted for shall be charged to the respective s. 51.42 or s. 51.437 board. The state shall provide the services required for patient care only if no such services are funded by the department in the county or combination of counties served by the respective board.

History: 1973 c. 90, 333.

51.39 County or municipality may establish mental retardation facility. A county or municipality or combination of counties or municipalities may establish and staff a mental retardation facility pursuant to ss. 20.435 (1) (pc) and (pd) and 140.65 to 140.76. County boards are authorized to appropriate county funds to establish and staff such center or facility.

51.40 Supplemental aid. (1) DECLARATION OF POLICY. The legislature recognizes that mental health is a matter of state-wide and county concern and that the protection and improvement of health are governmental functions. It is the intent of the legislature, therefore, to encourage and assist counties in the construction of community mental health facilities, and public medical institutions as defined by rule of the department.

(2) ELIGIBILITY. (a) Any county which qualifies for additional state aid under s. 51.26 [Stats. 1971] and has obtained approval for the construction of mental health facilities pursuant to s. 46.17 may apply for the financial assistance authorized by this section if such county has, at the time of application for assistance, an existing obligation to pay interest on loans for the construction of mental health facilities approved pursuant to s. 46.17.

(b) Any county may apply for the financial assistance authorized by this section if such county has, at the time of application for assistance, an existing obligation to pay interest on loans for the construction of public medical institutions as defined by rule of the department.

(c) Any county may apply for the financial assistance authorized by this section if such county has, at the time of application for assistance, an existing obligation to pay interest on loans for the construction of mental health facilities as defined by rule of the department.

(d) No county may claim aid under this section on any single obligation for more than 20 years.

(e) Termination of eligibility for aid under s. 51.26 [Stats. 1971] shall terminate eligibility for aid for the construction of mental health facilities, and failure to meet the requirements established for public medical institutions by rule of the department shall terminate eligibility for aid for the construction of public medical institutions. Failure to meet the requirements for mental health facilities established by rule of the department shall terminate eligibility for aid for the construction of mental health facilities.

(f) Mental health facilities shall include services required for the prevention, diagnosis, treatment and rehabilitation of the mentally ill, as established by rule of the department.

(3) LIMITATION OF AID. (a) Aid under this section shall be paid only on interest accruing after January 1, 1967, or after the date construction begins, whichever is later.

(b) Until June 30, 1970, such aid shall be at the rate of 60% of the interest obligations eligible under this section or that amount of such obligation as is equal to the percentage rate of participation of the state set forth in s. 49.52 (2) (a) [1971 Stats.], whichever is higher. The

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contribution of the state for such interest accruing in each fiscal year shall be controlled by the percentage rate of participation under s. 49.52 (2) (a) [1971 Stats.] on January 1 of that fiscal year. Beginning July 1, 1970, such aid shall be at the rate of 100%.

(c) This section applies only to construction projects approved for state interest aid by the department of health and social services prior to June 30, 1973.

(4) APPLICATION FOR AID. Application for aid under this section shall be filed with the department as prescribed by it. Such application shall include evidence of the existence of the indebtedness on which the county is obligated to pay interest. The department may by audit or investigation satisfy itself as to the amount and validity of the claim and, if satisfied, shall grant the aid provided by this section. Payment of aid shall be made to the county treasurer.

History: 1971 c. 125, 164, 211, 215.

51.42 Community mental health, mental retardation, alcoholism and drug abuse services. (1) PURPOSE. The purpose and intent of this section is to enable and encourage counties to develop a comprehensive range of services offering continuity of care; to utilize and expand existing governmental, voluntary and private community resources for provision of services to prevent or ameliorate mental disabilities, including but not limited to mental illness, mental retardation, alcoholism and drug abuse; to provide for the integration of administration of those services and facilities organized under this section through the establishment of a unified governing and policy-making board of directors; and to authorize state consultative services, reviews and establishment of standards and grants-in-aid for such program of services and facilities.

(2) DEFINITIONS. As used in this section:

(a) "Program" means community services and facilities for the prevention or amelioration of mental disabilities, including but not limited to mental illness, mental retardation, alcoholism and drug abuse.

(b) "Board" means the community mental health, mental retardation, alcoholism and drug abuse governing and policy-making board of directors.

(c) "Director" means the director appointed by the community mental health, mental retardation, and alcoholism and drug abuse board.

(d) "Secretary" means the secretary of health and social services.

(3) ESTABLISHMENT. (a) The county board of supervisors of any county, or the county boards of supervisors of any combination of counties, may establish a community mental health, mental retardation, alcoholism and drug abuse program, make appropriations to operate the program and authorize the board of directors of the program to apply for grants-in-aid pursuant to this section.

(b) The county board or boards of supervisors shall review and approve the overall plan, program and budgets proposed by the board.

(c) No grant-in-aid may be made to any combination of counties until the counties have drawn up a detailed contractual agreement, approved by the secretary, setting forth the plans for joint sponsorship.

(d) Counties may retain the ownership of the county hospital physical plant or the hospital may be operated as a joint county institution as authorized under s. 46.20. When a county or a combination of counties administer a program under this section the hospital shall be governed as follows:

1. For single counties, under sub. (4).

2. For a combination of counties, a hospital may be governed under s. 46.18 or as a joint institution under s. 46.20. The community mental health, mental retardation, alcoholism and drug abuse board may contract for its services.

3. For a combination of counties, a hospital may be governed under sub. (4).

(e) Any county or combination of counties acting under this section shall be eligible for payments under ss. 51.36 and 51.38 [Stats. 1971] for care furnished on and after July 1, 1971.

(4) CREATION OF BOARDS; APPOINTMENT, COMPOSITION AND TERMS OF MEMBERS. (a) The county board or boards of supervisors of any county or any combination of counties establishing or administering a program shall, before it qualifies under this section, appoint a governing and policy-making board of directors to be known as the community mental health, mental retardation, alcoholism and drug abuse board. In counties having a population of 500,000 or more, the board of public welfare established under s. 46.21 shall constitute the governing and policy-making board of directors.

(b) Except in counties having a population of 500,000 or more, in any county which does not combine with another county the board shall be composed of not less than 9 nor more than 15 persons of recognized ability and demonstrated interest in the problems of the mentally ill, mentally retarded, alcoholic or drug abuser. The board shall have representation from each of the aforementioned mental disability interest groups. No more than 5 members may be appointed from the county board of supervisors.

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(c) In any combination of counties, the board shall be composed of 11 members with 3 additional members for each combining county in excess of 2. Appointments shall be made by the county boards of supervisors of the combining counties in a manner acceptable to the combining counties, from the interested groups mentioned in par. (b), but each of the combining counties may appoint to the board not more than 3 members from its county board of supervisors.

(d) Except in counties having a population of 500,000 or more, the term of office of any member of the board shall be 3 years, but of the members first appointed, at least one-third shall be appointed for one year; at least one-third for 2 years; and the remainder for 3 years. Vacancies shall be filled for the residue of the unexpired term in the manner that original appointments are made. Any board member may be removed from office for cause by a two-thirds vote of the appointing authority, on due notice in writing and hearing of the charges against him.

(5) POWERS AND DUTIES OF BOARDS. Subject to this section and the rules promulgated thereunder, boards shall provide for:

(a) Collaborative and cooperative services with public health and other groups for programs of prevention;

(b) Comprehensive diagnostic and evaluation services;

(c) Inpatient and outpatient care and treatment, residential facilities, partial hospitalization, precare, aftercare, emergency care, rehabilitation and habilitation services, and supportive transitional services;

(d) Professional consultation;

(e) Public informational and educational services;

(f) Related research and staff in-service training;

(g) The program needs of persons suffering from mental disabilities, including but not limited to mental illness, mental retardation, alcoholism or drug abuse;

(h) Continuous planning, development and evaluation of programs and services for all population groups; and shall:

1. Establish long-range goals and intermediate-range plans, detail priorities and estimate costs;

2. Develop coordination of local services and continuity of care where indicated;

3. Utilize available community resources and develop new resources necessary to carry out the purposes of this section;

4. Appoint a director of the program on the basis of recognized and demonstrated interest in and knowledge of the problems of mental health, mental retardation, alcoholism and drug addiction, with due regard to training, experience, executive and administrative ability, and general qualification and fitness for the performance of the duties of the director;

5. Fix the salaries of personnel employed to administer the program;

7. Enter into contracts to render services to or secure services from other agencies or resources including out-of-state agencies or resources; and

8. Enter into contracts for the use of any facility as an approved public treatment facility under s. 51.45 for the treatment of alcoholics if the board deems it to be an effective and economical course to follow.

(6) DIRECTOR; POWERS AND DUTIES. (a) All of the administrative and executive powers and duties of managing, operating, maintaining and improving the program shall be vested in the director, subject to such delegation of authority as is not inconsistent with this section and the rules promulgated thereunder.

(b) In consultation and agreement with the board, the director shall prepare:

1. An annual comprehensive plan and budget of all funds necessary for the program and services authorized by this section in which priorities and objectives for the year are established as well as any modifications of long-range objectives;

2. Intermediate-range plans and budgets;

3. An annual report of the operation of the program; and

4. Such other reports as are required by the secretary and the county board or boards of supervisors.

(c) The director shall make recommendations to the board for:

1. Personnel and the salaries of employes; and

2. Changes in program services.

(7) OTHER PROGRAM REQUIREMENTS. (a) The first step in the establishment of a program shall be the preparation of a local plan which includes an inventory of all existing resources, identifies needed new resources and services and contains a plan for meeting the needs of the mentally ill, mentally retarded, alcoholic, drug abusers and other psychiatric disabilities. The plan shall also include the establishment of long-range goals and intermediate-range plans, detailing priorities and estimated costs and providing for coordination of local services and continuity of care.

(b) The clinical treatment program shall be directed by a licensed physician trained in psychiatry who may also be the director.

(c) Under the supervision of a director, qualified personnel with training or experience, or both, in mental health, mental retardation or in alcoholism shall be responsible for the coordination of programs relating to mental health, mental retardation or alcoholism.

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(8) GRANT-IN-AID. (a) Each board shall submit an annual program budget to the department for services, including active treatment inpatient county hospital services, as prescribed by the department based on the plan required under sub. (7) (a). The cost of all services purchased by the board shall be developed based on the standards and requirements of s. 46.036.

(b) The department shall review each budget to assure uniform costing of services and shall not approve any services that duplicate or are inconsistent with services being provided or purchased by the department or other county agencies receiving grants-in-aid or reimbursement from the department. The joint committee on finance may require the department to submit contracts between boards established under this section and providers of service to the committee for review.

(c) 1. The department shall provide from the appropriation under s. 20.435 (2) (b) a grant-in-aid to boards under this section. The department shall, during the fiscal year, review the budgets approved under par. (b) and sub. (10) and the expenditures of the various programs, and if funds are not needed for a program to which they were allocated, and, after reasonable notice and opportunity for hearing, the department may withdraw such funds as are unencumbered and reallocate them to other programs, or withdraw funds from any program which is not being administered in accordance with its approved plan and budget.

2. The grant-in-aid shall be 60% of the total cost of the approved budget after deducting from such cost the amounts received by the board or a provider of service under contract with the board as fees from clients and patients and after deducting from such cost the amounts received from federal funds or other state programs.

3. a. Beginning January 1, 1975, the state shall fully fund, within the limits of the appropriation under s. 20.435 (2) (b), a basic level of services for mental illness, developmental disability, alcoholism and drug abuse to meet minimum standards of service quality and accessibility established by the department.

b. The board may expand programs and services above the level provided in subd. 3.a with county and other local public or private funds at the discretion of the board.

c. Thirty percent of all nonstate revenues, except those in subd. 3.b, which shall include but not be limited to federal funds that are not specifically assigned to particular programs and patient fee collections, shall be applied to additional services and programs under this section above the level provided in subd. 3.a, and 70% of such revenues shall apply to the cost of basic services in subd. 3.a.

d. Thirty percent of patient fees, excluding federal medical assistance and medicare funds, collected by the state for services under this section shall be retained by the state. Seventy percent of patient fees collected by the state for services under this section shall be credited to the respective s. 51.42 board.

(d) Liability, and the collection and enforcement thereof, for care, services and supplies provided under this section, and the adjustment and settlement with the several counties for their proper share of all moneys collected under s. 46.10, shall be governed exclusively by s. 46.10.

(e) No grants-in-aid may be made pursuant to this section for the treatment of alcoholics in treatment facilities unless such facilities are approved by the department in accordance with s. 51.45 (8).

(9) CARE IN OTHER FACILITIES. Authorization for all care of any patient in a state, local or private facility shall be provided under a contractual agreement between the board and the facility, unless the board governs such facility. The need for inpatient care shall be determined by the clinical director of the program prior to the admission of the patient to the facility. The board shall reimburse the facility for the actual cost of care and services less applicable collections, according to s. 46.036, unless the department determines that a charge is administratively infeasible, such as transfers from state correctional institutions and interstate compact clients, or unless the department, after individual review, determines that the charge is not attributable to the cost of basic care and services. The exclusionary provisions of s. 46.03 (18) shall not apply to direct and indirect costs which are attributable to care and treatment of the client.

(10) DEPARTMENTAL DUTIES. The department shall:

(a) Review requests and certify boards created under sub. (4) to assure that the boards are in compliance with the respective subsections.

(b) Review and approve annual program plans and budgets required under sub. (8) (a).

(c) Periodically review and evaluate boards and programs to assure compliance with this section. Such review shall include a periodic assessment of need which shall separately identify elements of service required under this section.

(d) Provide consultative staff services to communities to assist in ascertaining local needs and in planning, establishing and operating programs.

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(12) RULES GOVERNING ADMINISTRATIVE STRUCTURE. The secretary, with the approval of the health and social services board, shall adopt rules governing the administrative structure deemed necessary to administer community mental health, mental retardation, alcoholism and drug abuse services; establishing uniform cost record-keeping requirements; governing eligibility of counties and combinations of counties for state grants-in-aid to operate programs; prescribing standards for qualifications and salaries of personnel; prescribing standards for quality of professional services; prescribing requirements for in-service and educational leave programs for personnel; prescribing standards for establishing patient fee schedules; governing eligibility of patients to the end that no person is denied service on the basis of age, race, color, creed, location or inability to pay; and prescribing such other standards and requirements as may be necessary to carry out the purposes of this section.

History: 1971 c. 125; 1973 c. 90, 198, 333, 336.

51.434 Definitions relating to developmental disabilities. The following definitions shall be used for the purposes of interpreting and administering ss. 51.435 to 51.437:

(1) "Developmental disability" means a disability attributable to mental retardation, cerebral palsy, epilepsy, or another neurological condition closely related to mental retardation or requiring treatment similar to that required for mentally retarded, which disability has originated before the individual has attained 18 years of age, has continued or can be expected to continue indefinitely and constitutes a substantial handicap to the afflicted individual.

(2) "Services" means specialized services or special adaptations of generic services directed toward the alleviation of a developmental disability or toward the social, personal, physical or economic habilitation or rehabilitation of an individual with such a disability, and includes diagnosis, evaluation, treatment, personal care, day care, domiciliary care, special living arrangements, training, education, sheltered employment, recreation, counseling of the individual with a developmental disability and his family, protective and other social and socio-legal services, information and referral services, follow-along services and transportation services necessary to assure delivery of services to persons with developmental disabilities.

History: 1971 c. 322; 1973 c. 336 s. 77.

51.435 Duties of the council on developmental disabilities. (1) The council shall:

(a) Designate appropriate state or local agencies for the administration of programs and fiscal resources made available to the state under federal legislation affecting the delivery of services to the developmentally disabled.

(b) Develop, approve and continue modification of a state-wide plan for the delivery of services, including the construction of facilities, to the developmentally disabled.

(c) Review and approve program and fiscal plans submitted by community developmental disabilities services boards when such plans require the expenditure of federal or state funds in their implementation.

(d) Continue evaluation of state and local services to the developmentally disabled.

(e) Provide continuing counsel to the governor and legislature.

(2) The council may establish such reasonable administrative rules and procedures as are essential to the exercise of its responsibilities.

History: 1971 c. 322.

51.436 Secretary, duties. (1) The secretary of health and social services shall:

(a) Maintain a listing of present or potential resources for serving the needs of the developmentally disabled, including private and public persons, associations and agencies.

(b) Collect factual information concerning the problems.

(c) Provide information, advice and assistance to communities and try to coordinate their activities on behalf of the developmentally disabled.

(d) Assist counties in obtaining professional services on a shared-time basis.

(e) Establish and maintain liaison with all state and local agencies to establish a continuum of services, consultative and informational.

History: 1971 c. 322.

51.437 Responsibility of county government. (1) The county boards have the primary governmental responsibility for the well-being of those developmentally disabled citizens residing within their respective counties and the families of the mentally retarded insofar as the usual resultant family stresses bear on the well-being of the developmentally disabled citizen. Adjacent counties, lacking the financial resources and professional personnel needed to provide or secure such services on a single-county basis, may and shall be encouraged to combine their energies and financial resources to provide these joint services and facilities with the approval of the council on developmental disabilities. This responsibility includes:

(a) The development, approval and continuing modification of a county or multicounty plan for the delivery of services, including the

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construction of facilities, to those citizens affected by developmental disabilities.

1. The purpose of such planning shall be to insure the delivery of needed services and the prevention of unnecessary duplication, fragmentation of services and waste of resources. Plans shall include, to the fullest extent possible, participation by existing and planned agencies of the state, counties, municipalities, school districts and all other public and private agencies as are required to, or may agree to, participate in the delivery of services.

2. Plans shall, to the fullest extent possible, be coordinated with and integrated into plans developed by regional comprehensive health planning agencies.

(b) Providing continuing counsel to public and private agencies as well as other appointed and elected bodies within the county.

(c) Establishing a program of citizen information and education concerning the problems associated with developmental disabilities.

(d) Establishing a fixed point of referral within the community for developmentally disabled persons and their families.

(2) The county board shall establish community developmental disabilities services boards to furnish services within the counties. If the community developmental disabilities services board cannot furnish these services, the boards shall secure such services elsewhere.

(3) The community developmental disabilities board shall not furnish services and programs provided by the department of public instruction and local educational agencies.

(4) (a) In counties having a population of less than 500,000, the community developmental disabilities services board shall be composed of not less than 9 nor more than 15 persons of recognized ability and demonstrated interest in the problems of the developmentally disabled but not more than 3 members shall be appointed from the county board of supervisors. Except that when counties combine to furnish services, the community developmental disabilities services board shall be composed of 11 members and with 2 additional members for each combining county in excess of 2. Appointments shall be made by the county boards of the combining counties in a manner acceptable to the combining counties, but each of the combining counties may appoint only 2 members from its county board. At least one-third of the members serving at any one time shall be appointed from the developmentally disabled citizens or their parents residing in the county or combining counties. Appointments shall be for staggered 3-year terms. Vacancies shall be filled for the residue of the unexpired term in the manner that original appointments are made. Any member may be removed from office for cause by a two-thirds vote of the appointing authority, on due notice in writing and hearing of the charges against him.

(b) In counties having population of less than 500,000, county boards may designate the community mental health, mental retardation, alcoholism and drug abuse board established under s. 51.42 as the community developmental disabilities board.

(5) In counties having a population of 500,000 or more, the board of public welfare established under s. 46.21 shall constitute the governing and policy-making board of directors. Such counties shall not combine with other counties. The appointment, composition and term of the members of the board of such counties shall be governed by s. 46.21.

(6) The community developmental disabilities services board shall:

(a) Establish a community developmental disabilities services program, appoint the director of the program, establish salaries and personnel policies for the program and arrange and promote local financial support for the program.

(b) Assist in arranging cooperative working agreements with other health, educational, vocational and welfare services, public or private, and with other related agencies.

(c) Enter into contracts to provide or secure services from other agencies or resources including out-of-state agencies or resources.

(d) Comply with the state requirements for the program.

(7) The director shall operate, maintain and improve the community developmental disabilities services program.

(a) The director and the board shall prepare:

1. An annual comprehensive plan and budget of all funds necessary for the program and services authorized by this section.

2. An annual report of the operation of the program.

3. Such other reports as are required by the council on developmental disabilities and the county board.

(b) The director shall make recommendations to the community developmental disabilities services board for:

1. Personnel and salaries.

2. Changes in the program and services.

(8) (a) Each board shall submit an annual program budget to the department as prescribed by the department based on the plan required under subs. (1) (a) and (7) (a). The cost of all services purchased by the board shall be developed and based on the standards and requirements of s. 46.036.

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(b) The department shall review each budget to insure uniform costing of services and shall not approve any services that duplicate or are inconsistent with services being provided or purchased by the department or other county agencies receiving grants-in-aid or reimbursement from the department. The joint committee on finance may require the department to submit contracts between boards established under this section and providers of service to the committee for review.

(c) 1. The department shall provide from the appropriation under s. 20.435 (2) (c) a grant-in-aid to boards under this section. The department shall, during the fiscal year, review the budgets approved under s. 51.435 (1) (c) and the expenditures of the various programs, and if funds are not needed for a program to which they were allocated, and, after reasonable notice and opportunity for hearing, the department may withdraw such funds as are unencumbered and reallocate them to other programs, or withdraw funds from any program which is not being administered in accordance with its approved plan and budget.

2. The grant-in-aid shall be 60% of the total cost of the approved budget after deducting from such cost the amounts received by the board or a provider of service under contract with the board as fees from clients and patients and after deducting from such cost the amounts received from federal funds or other state programs.

3. a. Beginning January 1, 1975, the state shall fully fund, within the limits of the appropriation under s. 20.435 (2) (c), a basic level of services for developmental disabilities, to meet minimum standards of service quality and accessibility established by the department.

b. The board may expand programs and services above the level provided in subd. 3.a with county and other local public or private funds at the discretion of the board.

c. Thirty percent of all nonstate revenues, except those in subd. 3.b, which shall include but not be limited to federal funds that are not specifically assigned to particular programs and patient fee collections, shall be applied to additional services and programs under this section above the level provided in subd. 3.a, and 70% of such revenues shall apply to the cost of basic services in subd. 3.a.

d. Thirty percent of patient fees, excluding federal medical assistance and medicare funds, collected by the state for services under this section shall be retained by the state. Seventy percent of patient fees collected by the state for services under this section shall be credited to the respective s. 51.437 board.

(d) Liability, and the collection and enforcement thereof, for care, services and supplies provided under this section, and the adjustment and settlement with the several counties for their proper share of all moneys collected under s. 46.10 shall be governed exclusively by s. 46.10.

(9) (a) Authorization for all care of any patient in a state, local or private facility shall be provided under a contractual agreement between the board and the facility, unless the board governs such facility. The need for inpatient care shall be determined by the clinical director of the program prior to the admission of the patient to the facility. The board shall reimburse the facility for the actual costs of care and services less applicable collections, according to s. 46.036, unless the department determines that a charge is administratively infeasible, such as transfers from state correctional institutions and interstate compact clients or unless the department, after individual review, determines that the charge is not attributable to the cost of basic care and services. The exclusionary provisions of s. 46.03 (18) shall not apply to direct and indirect costs which are attributable to care and treatment of the client.

(b) Where any of the community developmental disabilities services authorized are provided by any of the institutions specified in s. 46.10, the costs of such services shall be segregated from the costs of residential care provided at such institutions. The uniform cost record-keeping system established under s. 46.18 (8), (9) and (10) shall provide for such segregation of costs.

(10) (a) Except in counties of 500,000 residents or more, the community developmental disabilities services board shall assume the powers of any existing community day care services board under s. 51.38 [Stats. 1971]. Day care services shall continue to be administered and assisted with state grants-in-aid as before with the following exceptions:

1. Section 51.38 (6) [Stats. 1971] is not effective.

(b) The secretary of health and social services may modify rules necessary to allow the continuation of day care program services.

(c) In counties having a population of 500,000 or more, the board of public welfare shall integrate day care programs for the retarded and those with other developmental disabilities into the community developmental disabilities program and appoint a director to administer the overall developmental disabilities services program.

History: 1971 c. 307, 322; 1973 c. 90, 333.

51.45 Prevention and control of alcoholism. (1) DECLARATION OF POLICY. It is the policy of this state that alcoholics and intoxicated persons may not be subjected to criminal

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prosecution because of their consumption of alcoholic beverages but rather should be afforded a continuum of treatment in order that they may lead normal lives as productive members of society.

(2) DEFINITIONS. As used in this section, unless the context otherwise requires:

(a) "Alcoholic" means a person who habitually lacks self-control as to the use of alcoholic beverages and uses alcoholic beverages to the extent that his health is substantially impaired and by reason of such use is deprived of his ability to support or care for himself or his family. This definition does not apply to sub. (10).

(b) "Approved private treatment facility" means a private agency meeting the standards prescribed in sub. (8) (a) and approved under sub. (8) (c).

(c) "Approved public treatment facility" means a treatment agency operating under the direction and control of the department or providing treatment under this section through a contract with the department under sub. (7) (g) or with the county mental health, mental retardation, alcoholism and drug abuse board under s. 51.42 (5) (h) 8, and meeting the standards prescribed in sub. (8) (a) and approved under sub. (8) (c).

(d) "Incapacitated by alcohol" means that a person, as a result of the use of alcohol, is unconscious or has his judgment otherwise so impaired that he is incapable of realizing and making a rational decision with respect to his need for treatment, as evidenced objectively by extreme physical debilitation, physical harm or threats of harm to himself or to any other person, or to property.

(e) "Incompetent person" means a person who has been adjudged incompetent by the county court.

(f) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol.

(g) "State" means both the state government as represented by the department and any community mental health, mental retardation, alcoholism and drug abuse policy-making board under s. 51.42, unless the context otherwise requires.

(h) "Treatment" means the broad range of emergency, outpatient, intermediate, and inpatient services and care, including diagnostic evaluation, medical, surgical, psychiatric, psychological, and social service care, vocational rehabilitation and career counseling, which may be extended to alcoholics and intoxicated persons, and psychiatric, psychological and social service care which may be extended to their families.

(3) POWERS OF DEPARTMENT. To implement this section, the department may:

(a) Plan, establish and maintain treatment programs as necessary or desirable.

(b) Make contracts necessary or incidental to the performance of its duties and the execution of its powers, including contracts with public and private agencies, organizations, and individuals to pay them for services rendered or furnished to alcoholics or intoxicated persons.

(c) Keep records and engage in research and the gathering of relevant statistics.

(4) DUTIES OF DEPARTMENT. The department shall:

(a) Develop, encourage and foster statewide, regional, and local plans and programs for the prevention of alcoholism and treatment of alcoholics and intoxicated persons in cooperation with public and private agencies, organizations, and individuals and provide technical assistance and consultation services for these purposes.

(b) Coordinate the efforts and enlist the assistance of all public and private agencies, organizations and individuals interested in prevention of alcoholism and treatment of alcoholics and intoxicated persons.

(c) Assure cooperation between the divisions of corrections and mental hygiene in establishing and conducting programs to provide treatment for alcoholics and intoxicated persons in or on parole from penal institutions.

(d) Cooperate with the department of public instruction, local boards of education, schools, police departments, courts, and other public and private agencies, organizations and individuals in establishing programs for the prevention of alcoholism and treatment of alcoholics and intoxicated persons, and preparing curriculum materials thereon for use at all levels of school education.

(e) Prepare, publish, evaluate and disseminate educational material dealing with the nature and effects of alcohol.

(f) Develop and implement, as an integral part of treatment programs, an educational program for use in the treatment of alcoholics and intoxicated persons, which program shall include the dissemination of information concerning the nature and effects of alcohol.

(g) Organize and foster training programs for all persons engaged in treatment of alcoholics and intoxicated persons.

(h) Sponsor and encourage research into the causes and nature of alcoholism and treatment of alcoholics and intoxicated persons, and serve as a clearinghouse for information relating to alcoholism.

(i) Specify uniform methods for keeping statistical information by public and private

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agencies, organizations, and individuals, and collect and make available relevant statistical information, including number of persons treated, frequency of admission and readmission, and frequency and duration of treatment.

(j) Advise the governor or the state health planning agency under P.L. 89-749, as amended, in the preparation of a comprehensive plan for treatment of alcoholics and intoxicated persons for inclusion in the state's comprehensive health plan.

(k) Review all state health, welfare and treatment plans to be submitted for federal funding under federal legislation, and advise the governor or the state health planning agency under P.L. 89-749, as amended, on provisions to be included relating to alcoholism and intoxicated persons.

(l) Assist in the development of, and cooperate with, alcohol education and treatment programs for employes of state and local governments and businesses and industries in the state.

(m) Utilize the support and assistance of interested persons in the community, particularly recovered alcoholics, to encourage alcoholics voluntarily to undergo treatment.

(n) Cooperate with the highway safety coordinator and highway commission in establishing and conducting programs designed to deal with the problem of persons operating motor vehicles while intoxicated.

(o) Encourage general hospitals and other appropriate health facilities to admit without discrimination alcoholics and intoxicated persons and to provide them with adequate and appropriate treatment.

(p) Submit to the governor or the state health planning agency under P.L. 89-749, as amended, an annual report covering the activities of the department relating to treatment of alcoholism.

(q) Gather information relating to all federal programs concerning alcoholism, whether or not subject to approval by the department, to assure coordination and avoid duplication of efforts.

(6) CITIZENS ADVISORY COUNCIL ON ALCOHOLISM. (a) The citizens advisory council on alcoholism shall meet at least once every 3 months and report on its activities, advise and make recommendations under par. (b) to the secretary and the state health planning agency under P.L. 89-749, as amended, at least once a year.

(b) The council shall formulate advice on operation of the alcoholism program and on other matters referred to it, and shall encourage public understanding and support of the alcoholism program.

(7) COMPREHENSIVE PROGRAM FOR TREATMENT. (a) The department shall establish a comprehensive and coordinated program for the treatment of alcoholics and intoxicated persons.

(b) The program of the department shall include:

1. Emergency treatment provided by a facility affiliated with or part of the medical service of a general hospital.

2. Inpatient treatment.

3. Intermediate treatment.

4. Outpatient and follow-up treatment.

5. Custodial or long-term care.

6. Referral services.

(c) The department shall provide for adequate and appropriate treatment for alcoholics and intoxicated persons admitted under subs. (10) to (13). Treatment may not be provided at a correctional institution except for inmates.

(d) The superintendent of each facility shall make an annual report of its activities to the secretary in the form and manner the secretary specifies.

(e) All appropriate public and private resources shall be coordinated with and utilized in the program if possible.

(f) The secretary shall prepare, publish and distribute annually a list of all approved public and private treatment facilities.

(g) The department may contract for the use of any facility as an approved public treatment facility if the secretary considers this to be an effective and economical course to follow.

(8) STANDARDS FOR PUBLIC AND PRIVATE TREATMENT FACILITIES; ENFORCEMENT PROCEDURES. (a) The department shall establish minimum standards for approved treatment facilities that must be met for a treatment facility to be approved as a public or private treatment facility, and fix the fees to be charged by the department for the required inspections. The standards may concern only the health standards to be met and standards of treatment to be afforded patients. Nothing in this subsection shall prevent local boards organized under s. 51.42 from establishing reasonable higher standards.

(b) The department periodically shall make unannounced inspections of approved public and private treatment facilities at reasonable times and in a reasonable manner.

(c) Approval of a facility must be secured under this section before application for a grant-in-aid under s. 51.42.

(d) Each approved public and private treatment facility shall file with the department on request, data, statistics, schedules and information the department reasonably requires. An approved public or private treatment facility that without good cause fails to furnish any data, statistics, schedules or information as requested, or files fraudulent returns thereof,

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shall be removed from the list of approved treatment facilities.

(e) The department, after notice and hearing, may suspend, revoke, limit, or restrict an approval, or refuse to grant an approval, for failure to meet its standards.

(f) The county court may restrain any violation of this section, review any denial, restriction, or revocation of approval, and grant other relief required to enforce its provisions.

(9) ACCEPTANCE FOR TREATMENT; RULES. The secretary shall adopt and may amend and repeal rules for acceptance of persons into the treatment program, considering available treatment resources and facilities, for the purpose of early and effective treatment of alcoholics and intoxicated persons. In establishing the rules the secretary shall be guided by the following standards:

(a) If possible a patient shall be treated on a voluntary rather than an involuntary basis.

(b) A patient shall be initially assigned or transferred to outpatient or intermediate treatment, unless he is found to require inpatient treatment.

(c) No person may be denied treatment solely because he has withdrawn from treatment against medical advice on a prior occasion or because he has relapsed after earlier treatment.

(d) An individualized treatment plan shall be prepared and maintained on a current basis for each patient.

(e) Provision shall be made for a continuum of coordinated treatment services, so that a person who leaves a facility or a form of treatment will have available and utilize other appropriate treatment.

(10) VOLUNTARY TREATMENT OF ALCOHOLICS. (a) An alcoholic may apply for voluntary treatment directly to an approved public treatment facility. If the proposed patient is a minor or an incompetent person, he, a parent, a legal guardian, or other legal representative may make the application. For purposes of this subsection, an "alcoholic" is a person who habitually lacks self-control as to the use of alcoholic beverages, or uses such beverages to the extent that his health is substantially impaired or endangered or his social or economic function is substantially disrupted.

(b) Subject to rules adopted by the secretary, the superintendent in charge of an approved public treatment facility may determine who shall be admitted for treatment. If a person is refused admission to an approved public treatment facility, the superintendent, subject to rules adopted by the secretary, shall refer the person to another approved public treatment facility for treatment if possible and appropriate.

(c) If a patient receiving inpatient care leaves an approved public treatment facility, he shall be encouraged to consent to appropriate out-patient or intermediate treatment. If it appears to the superintendent in charge of the treatment facility that the patient is an alcoholic who requires help, the department shall arrange for assistance in obtaining supportive services and residential facilities.

(d) If a patient leaves an approved public treatment facility, with or against the advice of the superintendent in charge of the facility, the department shall make reasonable provisions for his transportation to another facility or to his home. If he has no home he shall be assisted in obtaining shelter. If he is a minor or an incompetent person the request for discharge from an inpatient facility shall be made by a parent, legal guardian, or other legal representative or by the minor or incompetent if he was the original applicant.

(11) TREATMENT AND SERVICES FOR INTOXICATED PERSONS AND OTHERS INCAPACITATED BY ALCOHOL. (a) An intoxicated person may come voluntarily to an approved public treatment facility for emergency treatment. A person who appears to be intoxicated in a public place and to be in need of help, if he consents to the proffered help, may be assisted to his home, an approved public treatment facility, an approved private treatment facility, or other health facility by any law enforcement officer.

(b) A person who appears to be incapacitated by alcohol shall be taken into protective custody by a law enforcement officer and forthwith brought to an approved public treatment facility for emergency treatment. If no approved public treatment facility is readily available he shall be taken to an emergency medical service customarily used for incapacitated persons. The law enforcement officer, in detaining the person and in taking him to an approved public treatment facility, is taking him into protective custody and shall make every reasonable effort to protect his health and safety. In taking the person into protective custody, the detaining officer may take reasonable steps to protect himself. A taking into protective custody under this subsection is not an arrest. No entry or other record shall be made to indicate that the person has been arrested or charged with a crime.

(c) A person who comes voluntarily or is brought to an approved public treatment facility shall be examined by a licensed physician as soon as possible. He may then be admitted as a patient or referred to another health facility. The referring approved public treatment facility shall arrange for his transportation.

(d) A person who by medical examination is found to be incapacitated by alcohol at the time

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of his admission or to have become incapacitated at any time after his admission, may not be detained at the facility once he is no longer incapacitated by alcohol, or if he remains incapacitated by alcohol for more than 24 hours after admission as a patient, unless he is committed under sub. (12). A person may consent to remain in the facility as long as the physician in charge believes appropriate.

(e) A person who is not admitted to an approved public treatment facility, is not referred to another health facility, and has no funds, may be taken to his home, if any. If he has no home, the approved public treatment facility shall assist him in obtaining shelter.

(f) If a patient is admitted to an approved public treatment facility, his family or next of kin shall be notified as promptly as possible. If an adult patient who is not incapacitated requests that there be no notification, his request shall be respected.

(g) Any law enforcement officer who acts in compliance with this section is acting in the course of his official duty and is not criminally or civilly liable for false imprisonment.

(h) If the physician in charge of the approved public treatment facility determines it is for the patient's benefit, the patient shall be informed of the benefits of further diagnosis and appropriate voluntary treatment.

(12) EMERGENCY COMMITMENT. (a) An intoxicated person who has threatened, attempted or inflicted physical harm on another and is likely to inflict physical harm on another unless committed, or is incapacitated by alcohol, may be committed to the state and brought to an approved public treatment facility for emergency treatment. A refusal to undergo treatment does not constitute evidence of lack of judgment as to the need for treatment.

(b) The physician, spouse, guardian or a relative of the person to be committed, or any other responsible person, may make a written application for commitment under this section, directed to the superintendent of the approved public treatment facility. The application shall state facts to support the need for emergency treatment and shall be supported by one or more affidavits which aver with particularity the factual basis for the allegations contained in the petition.

(c) Upon approval of the application by the superintendent in charge of the approved public treatment facility, the person may be brought to the facility by a law enforcement officer, a health officer, the applicant for commitment, the patient's spouse, the patient's guardian or any other interested person. Upon arrival at the approved public treatment facility, the patient shall be advised both orally and in writing of his right to counsel, his right to trial by jury, his privilege against self-incrimination and of the reasons for detention and the standard under which he may be committed prior to all interviews with physicians, psychologists, or other personnel. The person may be retained at the facility to which he was admitted, or transferred by the department to another appropriate public or private treatment facility, until discharged under par. (f).

(d) An officer of the approved public treatment facility shall make application to a court commissioner or the county court of the county in which the person to be committed resides or is present for appointment of counsel, unless waived. If the person desires counsel and is indigent, counsel shall be provided. The application shall request the court to set a time for a preliminary hearing to determine if there is probable cause for believing the person is in need of commitment. It shall be made immediately upon the arrival of the person at the approved public treatment facility or as soon thereafter as possible, but in no event later than 24 hours after the person's arrival.

(e) The superintendent in charge of an approved public treatment facility shall refuse an application if in his opinion the application and supporting affidavit or affidavits fail to sustain the grounds for commitment.

(f) When on the advice of the medical staff the superintendent of an approved public treatment facility determines that the grounds for commitment no longer exist, he shall discharge a person committed under this subsection. No person committed under this subsection shall be detained in any treatment facility or facilities for more than 48 hours without a preliminary hearing pursuant to sub. (13) (b). If a petition for involuntary commitment under sub. (13) has been filed and a finding of probable cause for believing the patient is in need of commitment has been made pursuant to sub. (13) (b) and the superintendent has found that grounds for emergency commitment still exist, he may detain the person until the petition has been heard and determined.

(g) A copy of the written application for commitment and copies of all accompanying affidavits shall be given to the patient within 24 hours of commitment by the superintendent, who shall provide a reasonable opportunity for the person to consult counsel.

(13) INVOLUNTARY COMMITMENT OF ALCOHOLICS. (a) A person may be committed to the custody of the state by the county court upon the petition of his spouse or guardian, a relative, a physician, or the superintendent in charge of any approved public treatment facility. A refusal to undergo treatment shall not constitute

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evidence of lack of judgment as to the need for treatment. The petition for commitment shall:

1. Allege that the person is an alcoholic as defined in sub. (2) (a); and

2. Allege that the condition of the person as an alcoholic is evidenced by a pattern of conduct which is dangerous to the person or to others; and

3. Be supported by one or more affidavits which aver with particularity the factual basis for the allegations contained in the petition.

(b) Whenever it is desired to involuntarily commit a person, whether or not such person is already in custody pursuant to sub. (11) or (12), a preliminary hearing shall be held within 48 hours of the initial taking into custody. The person shall be represented by counsel at the preliminary hearing, although representation by counsel may be waived subject to the limitation in par. (l). An attorney shall timely be appointed, pursuant to par. (12) (d) where applicable, to represent such person, who shall be employed at county expense if the person is indigent. Counsel shall have access to all reports and records, psychiatric and otherwise, which have been made prior to the preliminary hearing. Any interviews must be in compliance with par. (d). The purpose of the preliminary hearing shall be to determine if there is probable cause for believing the person is in need of commitment. Effective and timely notice of the preliminary hearing shall be given to the person, his spouse or legal guardian if he is a minor or incompetent, and to his counsel. The detained person shall be present at the preliminary hearing, and he shall be afforded meaningful opportunity to be heard.

(c) Upon filing the petition, or upon a finding of probable cause at a preliminary hearing held under par. (b), the court shall fix a date for a full hearing, to be held not more than 14 days after the date the petition is filed or the date the person was first taken into detention, whichever is earlier. An extension of not more than 14 additional days may be had upon motion of the person sought to be committed upon a showing of cause. A copy of the petition and of all supporting affidavits, together with notice of the hearing specifying the date fixed by the court, shall timely be served on the petitioner, the person whose commitment is sought, his counsel, his next of kin other than the petitioner, a parent or legal guardian if he is a minor or incompetent, the superintendent in charge of the approved public treatment facility to which he has been committed for emergency care, and any other person the court believes advisable. A copy of the petition and of all supporting affidavits shall be delivered to each person notified.

(d) Counsel shall have access to all reports and records, psychiatric and otherwise, which have been made prior to the full hearing on commitment. No interviews may be held with any physician, psychologist or other official of the facility unless the patient is first informed of his right against self-incrimination and a transcript or recording is made available to counsel if desired.

(e) The hearing shall be open, unless the person sought to be committed or his attorney moves that it be closed, in which case only persons in interest (including representatives of the department in all cases) and their attorneys and witnesses may be present. At the hearing the jury, or, if trial by jury is waived, the court, shall hear all relevant evidence, including, if possible, the testimony of at least one licensed physician who has examined the person whose commitment is sought. Ordinary rules of evidence shall apply to any such proceeding. The person whose commitment is sought shall be present. If the person whose commitment is sought has refused to be examined by a licensed physician, he shall be given an opportunity to be examined by a court-appointed licensed physician. If he refuses and there is sufficient evidence to believe that the allegations of the petition are true, or if the court believes that more medical evidence is necessary, the court may make a temporary order committing him to the state for a period of not more than 5 days for purposes of diagnostic examination.

(f) The court shall make an order of commitment to the state if, after hearing all relevant evidence, including the results of any diagnostic examination, the trier of fact finds: 1) that grounds for involuntary commitment as alleged pursuant to par. (a) have been established beyond a reasonable doubt; and 2) that there is a relationship between the alcoholic condition and the pattern of conduct which is dangerous to the person or others and that such relationship has been established to a reasonable medical certainty; and 3) that there is an extreme likelihood that the pattern of conduct will continue or repeat itself without the intervention of involuntary treatment or institutionalization. The court may not order commitment of a person unless it is shown that there is no suitable alternative available and that the state is able to provide the most appropriate treatment for him and that the treatment is likely to be beneficial.

(g) A person committed under this subsection shall remain in the custody of the state for treatment for a period of 30 days unless sooner discharged. At the end of the 30-day period, he shall be discharged automatically unless the state before expiration of the period obtains a court order for his recommitment upon the grounds set forth in par. (a) for a further period

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of 90 days unless sooner discharged. If a person has been committed because he is an alcoholic likely to inflict physical harm on another, the state shall apply for recommitment if after examination it is determined that the likelihood still exists.

(h) A person recommitted under par. (g) who has not been discharged by the state before the end of the 90-day period shall be discharged at the expiration of that period unless the state, before expiration of the period, obtains a court order on the grounds set forth in par. (a) for recommitment for a further period not to exceed 90 days. If a person has been committed because he is an alcoholic likely to inflict physical harm on another, the state shall apply for recommitment if after examination it is determined that the likelihood still exists. Only 2 recommitment orders under pars. (g) and (h) are permitted.

(i) Upon the filing of a petition for recommitment under par. (g) or (h), the court shall fix a date for hearing no later than 10 days after the date the petition was filed. A copy of the petition and of the notice of hearing, including the date fixed by the court, shall be served on the petitioner, the person whose commitment is sought, his legal counsel, his next of kin other than the petitioner, the original petitioner under par. (a) if different from the petitioner for recommitment, one of his parents or his guardian if he is a minor or incompetent, and any other person the court believes advisable. At the hearing the court shall proceed as provided in pars. (e) and (f).

(j) The state shall provide for adequate and appropriate treatment of a person committed to its custody. Any person committed to custody may be transferred by the department from one approved public treatment facility to another if transfer is medically advisable.

(k) A person committed to the custody of the state for treatment shall be discharged at any time before the end of the period for which he has been committed if either of the following conditions is met:

1. The patient is making a satisfactory recovery or the likelihood of infliction of physical harm on himself or another no longer exists; or

2. Further treatment will not be likely to bring about significant improvement in the person's condition, or treatment is no longer adequate or appropriate.

(l) The court shall inform the person whose commitment or recommitment is sought of his right to contest the application, to be represented by counsel at every stage of any proceedings relating to his commitment and recommitment, and to have counsel appointed by the court if he wants the assistance of counsel and is unable to obtain counsel, or provided by the court if he is indigent. If the court believes that the person needs the assistance of counsel, the court shall require, by appointment if necessary, counsel for him regardless of his wishes. The person whose commitment or recommitment is sought shall be informed of his right to be examined by a licensed physician of his choice. If the person is unable to obtain a licensed physician and requests examination by a physician, the court shall employ a licensed physician.

(m) If a private treatment facility agrees with the request of a competent patient or his parent, sibling, adult child, or guardian to accept the patient for treatment, the superintendent of the public treatment facility shall transfer him to the private treatment facility.

(n) A person committed under this section may at any time seek to be discharged from commitment by writ of habeas corpus pursuant to s. 292.01 (2).

(o) The venue for proceedings under this subsection is the place in which the person to be committed resides or is present.

(p) All fees and expenses incurred under this section which are required to be assumed by the state shall be governed by s. 51.07.

(q) A record shall be made of all proceedings held pursuant to this subsection. Transcripts shall be made available pursuant to s. 256.57. The department may in any case request a transcript.

(r) 1. Within 5 days after the date of mailing of notice of entry of judgment, as indicated in the case docket, an appeal from any final judgment under this section may be taken to the circuit court by any party to the action or proceedings, upon filing with the clerk of court which tried the case a notice of appeal signed by the appellant or his attorney, and serving a copy of such notice on all parties bound by the judgment who appeared in the action or their attorneys. Execution may be stayed under ch. 274. Within 40 days after notice of appeal is filed the appellant shall file with the clerk of court a transcript of the reporter's notes of the hearing. The appellant shall pay the costs of preparing the transcript.

2. Within 10 days after the transcript is filed with the clerk, the clerk shall return the case file and transcript to the circuit court and shall notify the parties of such filing.

3. On appeal, the circuit court has power similar to that of the supreme court to review and to affirm, reverse or modify the judgment appealed from. In addition, the circuit court may order a new hearing in whole or in part, which shall be in the county court.

4. At any time, after the filing in the circuit court of the return on an appeal, any party to the action or proceeding, upon notice, may move that the judgment appealed from be affirmed, or

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modified and affirmed as modified, or that the appeal be dismissed, or may move for a new hearing or a reversal. This motion shall state concisely the grounds upon which it is made and shall be heard on the record.

(14) RECORDS OF ALCOHOLICS AND INTOXICATED PERSONS. (a) The registration and other records of treatment facilities shall remain confidential and are privileged to the patient.

(b) Notwithstanding par. (a), the secretary may make available information from patients' records for purposes of research into the causes and treatment of alcoholism. Information under this paragraph shall not be published in a way that discloses patients' names or other identifying information.

(c) This subsection shall not prevent the confidential exchange of information between a treatment facility and an official responsible for payment for treatment under sub. (16) (d) for the purpose of making a determination of liability for payment.

(15) VISITATION AND COMMUNICATION TO PATIENTS. (a) Subject to reasonable rules regarding hours of visitation which the secretary may adopt, patients in any approved treatment facility shall be granted opportunities for adequate consultation with counsel, and for continuing contact with family and friends consistent with an effective treatment program.

(b) Neither mail nor other communication to or from a patient in any approved treatment facility may be intercepted, read or censored. The secretary may adopt reasonable rules regarding the use of telephone by patients in approved treatment facilities.

(c) No provisions of this section shall be deemed to contradict any rules or regulations governing the conduct of any inmate of a state or county correctional institution who is being treated in an alcoholic treatment program within the institution.

(16) PAYMENT FOR TREATMENT. (a) If treatment is provided by an approved public treatment facility and the patient has not paid the charge therefor, the state is entitled to any payment received by the patient or to which he may be entitled because of the services rendered. It is also entitled to any public or private source available to it because of the treatment provided to the patient. Payment may be collected in accordance with s. 46.10.

(b) A patient in an approved treatment facility, or the estate of the patient, or a person obligated to provide for the cost of treatment and having sufficient financial ability, is liable to the department or the county for cost of maintenance and treatment of the patient therein in accordance with rates established.

(c) The secretary shall adopt rules governing financial ability that take into consideration the income, savings and other personal and real property of the person required to pay, and any support being furnished by him to any person he is required by law to support.

(d) Counties shall be liable for maintenance and treatment performed under this section in accordance with legal settlement as determined under s. 49.10.

(e) Payment for treatment of persons treated under s. 53.38 shall be made pursuant to that section.

(17) APPLICABILITY OF OTHER LAWS; PROCEDURE. (a) Nothing in this section affects any law, ordinance or rule the violation of which is punishable by fine, forfeiture or imprisonment.

(b) All administrative procedure followed by the secretary in the implementation of this section shall be in accordance with ch. 227.

(18) CONSTRUCTION. This section shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this section insofar as possible among states which enact similar laws.

(19) SHORT TITLE. This section may be cited as the "Alcoholism and Intoxication Treatment Act".

History: 1973 c. 198

51.50 Short title. This chapter shall be known as The State Mental Health Act.

51.75 Interstate compact on mental health. The interstate compact on mental health is enacted into law and entered into by this state with all other states legally joining therein substantially in the following form:

THE INTERSTATE COMPACT ON MENTAL HEALTH.

The contracting states solemnly agree that:

Article I.

The party states find that the proper and expeditious treatment of the mentally ill and mentally deficient can be facilitated by co-operative action, to the benefit of the patients, their families and society as a whole. Further, the party states find that the necessity of and desirability for furnishing such care and treatment bears no primary relation to the residence or citizenship of the patient but that, on the contrary, the controlling factors of community safety and humanitarianism require that facilities and services be made available for all who are in need of them. Consequently, it is the purpose of this compact and of the party states to provide the necessary legal basis for the institutionalization or other appropriate care and treatment of the mentally ill and mentally

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deficient under a system that recognizes the paramount importance of patient welfare and to establish the responsibilities of the party states in terms of such welfare.

Article II.

As used in this compact:

(a) "Sending state" means a party state from which a patient is transported pursuant to the provisions of the compact or from which it is contemplated that a patient may be so sent.

(b) "Receiving state" means a party state to which a patient is transported pursuant to the provisions of the compact or to which it is contemplated that a patient may be so sent.

(c) "Institution" means any hospital or other facility maintained by a party state or political subdivision thereof for the care and treatment of mental illness or mental deficiency.

(d) "Patient" means any person subject to or eligible as determined by the laws of the sending state, for institutionalization or other care, treatment or supervision pursuant to the provisions of this compact.

(e) "Aftercare" means care, treatment and services provided a patient, as defined herein, on convalescent status or conditional release.

(f) "Mental illness" means mental disease to such extent that a person so afflicted requires care and treatment for his own welfare, or the welfare of others, or of the community.

(g) "Mental deficiency" means mental deficiency as defined by appropriate clinical authorities to such extent that a person so afflicted is incapable of managing himself and his affairs, but shall not include mental illness as defined herein.

(h) "State" means any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

Article III.

(a) Whenever a person physically present in any party state is in need of institutionalization by reason of mental illness or mental deficiency, he shall be eligible for care and treatment in an institution in that state irrespective of his residence, settlement or citizenship, qualifications.

(b) The provisions of par. (a) of this article to the contrary notwithstanding any patient may be transferred to an institution in another state whenever there are factors based upon clinical determinations indicating that the care and treatment of said patient would be facilitated or improved thereby. Any such institutionalization may be for the entire period of care and treatment or for any portion thereof. The factors referred to in this paragraph include the patient's full record with due regard for the location of the patient's family, character of the illness and probable duration thereof, and such other factors as are considered appropriate.

(c) No state is obliged to receive any patient pursuant to par. (b) of this article unless the sending state has given advance notice of its intention to send the patient, furnished all available medical and other pertinent records concerning the patient and given the qualified medical or other appropriate clinical authorities of the receiving state an opportunity to examine the patient if said authorities so wish, and unless the receiving state agrees to accept the patient.

(d) If the laws of the receiving state establish a system of priorities for the admission of patients, an interstate patient under this compact shall receive the same priority as a local patient and shall be taken in the same order and at the same time that he would be taken if he were a local patient.

(e) Pursuant to this compact, the determination as to the suitable place of institutionalization for a patient may be reviewed at any time and such further transfer of the patient may be made as seems likely to be in the best interest of the patient.

Article IV.

(a) Whenever, pursuant to the laws of the state in which a patient is physically present, it is determined that the patient should receive aftercare or supervision, such care or supervision may be provided in a receiving state. If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state have reason to believe that aftercare in another state would be in the best interest of the patient and would not jeopardize the public safety, they shall request the appropriate authorities in the receiving state to investigate the desirability of affording the patient such aftercare in said receiving state, and such investigation shall be made with all reasonable speed. The request for investigation shall be accompanied by complete information concerning the patient's intended place of residence and the identity of the person in whose charge it is proposed to place the patient, the complete medical history of the patient and such other documents as are pertinent.

(b) If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state and the appropriate authorities in the receiving state find that the best interest of the patient would be served thereby, and if the public safety would not be jeopardized thereby, the patient may receive aftercare or supervision in the receiving state.

(c) In supervising, treating or caring for a patient on aftercare pursuant to the terms of this article, a receiving state shall employ the same

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standards of visitation, examination, care and treatment that it employs for similar local patients.

Article V.

Whenever a dangerous or potentially dangerous patient escapes from an institution in any party state, that state shall promptly notify all appropriate authorities within and without the jurisdiction of the escape, in a manner reasonably calculated to facilitate the speedy apprehension of the escapee. Immediately upon the apprehension and identification of any such dangerous or potentially dangerous patient, he shall be detained in the state where found, pending disposition in accordance with law.

Article VI.

The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the patient, shall be permitted to transport any patient being moved pursuant to this compact through any state party to this compact, without interference.

Article VII.

(a) No person shall be deemed a patient of more than one institution at any given time. Completion of transfer of any patient to an institution in a receiving state shall have the effect of making the person a patient of the institution in the receiving state.

(b) The sending state shall pay all costs of and incidental to the transportation of any patient pursuant to this compact, but any 2 or more party states may, by making a specific agreement for that purpose, arrange for a different allocation of costs as among themselves.

(c) No provision of this compact shall be construed to alter or affect any internal relationships among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs or responsibilities therefor.

(d) Nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person in regard to costs for which such party state or subdivision thereof may be responsible pursuant to any provision of this compact.

(e) Nothing in this compact shall be construed to invalidate any reciprocal agreement between a party state and a nonparty state relating to institutionalization, care or treatment of the mentally ill or mentally deficient or any statutory authority pursuant to which such agreements may be made.

Article VIII.

(a) Nothing in this compact shall be construed to abridge, diminish or in any way impair the rights, duties and responsibilities of any patient's guardian on his own behalf or in respect of any patient for whom he may serve, except that where the transfer of any patient to another jurisdiction makes advisable the appointment of a supplemental or substitute guardian, any court of competent jurisdiction in the receiving state may make such supplemental or substitute appointment and the court which appointed the previous guardian shall, upon being duly advised of the new appointment, and upon the satisfactory completion of such accounting and other acts as such court by law requires, relieve the previous guardian of power and responsibility to whatever extent is appropriate in the circumstances. In the case of any patient having settlement in the sending state, the court of competent jurisdiction in the sending state has the sole discretion to relieve a guardian appointed by it or continue his power and responsibility, whichever it deems advisable. The court in the receiving state may, in its discretion, confirm or reappoint the person previously serving as guardian in the sending state in lieu of making a supplemental or substitute appointment.

(b) The term "guardian" as used in par. (a) of this article includes any guardian, trustee, legal committee, conservator or other person or agency however denominated who is charged by law with power to act for or responsibility for the person or property of a patient.

Article IX.

(a) No provision of this compact except Article V applies to any person institutionalized while under sentence in a penal or correctional institution or while subject to trial on a criminal charge, or whose institutionalization is due to the commission of an offense for which, in the absence of mental illness or mental deficiency, said person would be subject to incarceration in a penal or correctional institution.

(b) To every extent possible, it is the policy of states party to this compact that no patient shall be placed or detained in any prison, jail or lockup, but such patient shall, with all expedition, be taken to a suitable institutional facility for mental illness or mental deficiency.

Article X.

(a) Each party state shall appoint a "compact administrator" who, on behalf of his state, shall act as general co-ordinator of activities under the compact in his state and who shall receive copies of all reports, correspondence and other documents relating to any patient processed under the compact by his state either in the capacity of sending or receiving state. The compact administrator or his duly designated representative shall be the official with whom other party states shall deal in any matter relating to the compact or any patient processed thereunder.

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(b) The compact administrators of the respective party states shall have power to promulgate reasonable rules and regulations to carry out more effectively the terms and provisions of this compact.

Article XI.

The duly constituted administrative authorities of any 2 or more party states may enter into supplementary agreements for the provision of any service or facility or for the maintenance of any institution on a joint or co-operative basis whenever the states concerned find that such agreements will improve services, facilities or institutional care and treatment in the fields of mental illness or mental deficiency. No such supplementary agreement shall be construed so as to relieve any party state of any obligation which it otherwise would have under other provisions of this compact.

Article XII.

This compact enters into full force and effect as to any state when enacted by it into law and such state shall thereafter be a party thereto with all states legally joining therein.

Article XIII.

(a) A state party to this compact may withdraw therefrom by enacting a statute repealing the same. Such withdrawal takes effect one year after notice thereof has been communicated officially and in writing to the governors and compact administrators of all other party states. However, the withdrawal of any state shall not change the status of any patient who has been sent to said state or sent out of said state pursuant to the provisions of the compact.

(b) Withdrawal from any agreement permitted by Article VII (b) as to costs or from any supplementary agreement made pursuant to Article XI shall be in accordance with the terms of such agreement.

Article XIV.

This compact shall be liberally construed so as to effectuate the purpose thereof. The provisions of this compact are severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state, or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact is held contrary to the constitution of any party state thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

51.76 Compact administrator. Pursuant to the interstate compact on mental health, the secretary shall be the compact administrator and, acting jointly with like officers of other party states, may promulgate rules to carry out more effectively the terms of the compact. The compact administrator shall co-operate with all departments, agencies and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact or any supplementary agreement entered into by this state thereunder.

51.77 Transfer of patients. (1) In this section "relatives" means the patient's spouse, parents, grandparents, adult children, adult siblings, adult aunts, adult uncles and adult cousins, and any other relative with whom the patient has resided in the previous 10 years.

(2) Transfer of patients out of Wisconsin to another state under the interstate compact on mental health shall be upon recommendation of no less than 3 physicians licensed under ch. 448 appointed by the court of competent jurisdiction and shall be only in accord with the following requirements:

(a) That the transfer be requested by the patient's relatives or guardian or a person with whom the patient has resided for a substantial period on other than a commercial basis. This requirement does not preclude the compact administrator or the institution in which the patient is in residence from suggesting that relatives or the guardian request such transfer.

(b) That the compact administrator determine that the transfer of said patient is in his best interest.

(c) That the patient have either interested relatives in the receiving state or a determinable interest in the receiving state.

(d) That the patient, guardian and relatives, as determined by the patient's records, whose addresses are known or can with reasonable diligence be ascertained, be notified.

(e) That none of the persons given notice under par. (d) object to the transfer of said patient within 30 days of receipt of such notice.

(f) That records of the intended transfer, including proof of service of notice under par. (d) be reviewed by branch 1 of the county court of the county in which the patient is confined or by any other court which a relative or guardian requests to do so.

(3) If the request for transfer of a patient is rejected for any of the reasons enumerated under sub. (2), the compact administrator shall notify all persons making the request as to why the request was rejected and of his right to appeal the decision to a competent court.

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(4) If the patient, guardian or any relative feels that the objections of other relatives or of the compact administrator raised under sub. (2) are not well-founded in preventing transfer, such person may appeal the decision not to transfer to a competent court having jurisdiction which shall determine, on the basis of evidence by the interested parties and psychiatrists, psychologists and social workers who are acquainted with the case, whether transfer is in the best interests of the patient. The requirements of sub. (2) (c) shall apply to this subsection.

(5) The determination of mental illness in proceedings in this state shall require a finding of insanity, mental infirmity because of senility, or mental deficiency because of feeble-mindedness in accordance with the procedures contained in ss. 51.01 to 51.04.

51.78 Supplementary agreements. The compact administrator may enter into supplementary agreements with appropriate officials of other states pursuant to Articles VII and XI of the compact. If such supplementary agreements require or contemplate the use of any institution or facility of this state or county or require or contemplate the provision of any service by this state or county, no such agreement shall take effect until approved by the head of the department or agency under whose jurisdiction said institution or facility is operated or whose department or agency will be charged with the rendering of such service.

51.79 Transmittal of copies. Duly authorized copies of this act shall, upon its approval, be transmitted by the secretary of state to the governor of each state, the attorney general and the administrator of general services of the United States and the council of state governments.

51.80 Patients' rights. Nothing in the interstate compact on mental health shall be construed to abridge, diminish or in any way impair the rights or liberties of any patient affected by the compact.

51.81 Definitions. The terms "flight" and "fled" as used in ss. 51.81 to 51.85 shall be construed to mean any voluntary or involuntary departure from the jurisdiction of the court where the proceedings hereinafter mentioned may have been instituted and are still pending with the effect of avoiding, impeding or delaying the action of the court in which such proceedings may have been instituted or be pending, or any such departure from the state where the person demanded then was, if he then was under detention by law as a person of unsound mind and subject to detention. The word "state" wherever used in ss. 51.81 to 51.85 shall include states, territories, districts and insular and other possessions of the United States. As applied to a request to return any person within the purview of ss. 51.81 to 51.85 to or from the District of Columbia, the words, "executive authority," "governor" and "chief magistrate," respectively, shall include a justice of the supreme court of the District of Columbia and other authority.

History: 1971 c. 40 s. 93.

51.82 Shall be delivered up. A person alleged to be of unsound mind found in this state, who has fled from another state, in which at the time of his flight: (a) He was under detention by law in a hospital, asylum or other institution for the insane as a person of unsound mind; or (b) he had been theretofore determined by legal proceedings to be of unsound mind, the finding being unreversed and in full force and effect, and the control of his person having been acquired by a court of competent jurisdiction of the state from which he fled; or (c) he was subject to detention in such state, being then his legal domicile (personal service of process having been made) based on legal proceedings there pending to have him declared of unsound mind, shall on demand of the executive authority of the state from which he fled, be delivered up to be removed thereto.

51.83 Authentication of demand; discharge; costs. (1) Whenever the executive authority of any state demands of the executive authority of this state, any fugitive within the purview of s. 51.82 and produces a copy of the commitment, decree or other judicial process and proceedings, certified as authentic by the governor or chief magistrate of the state whence the person so charged has fled with an affidavit made before a proper officer showing the person to be such a fugitive, it is the duty of the executive authority of this state to cause him to be apprehended and secured, if found in this state, and to cause immediate notice of the apprehension to be given to the executive authority making such demand, or to the agent of such authority appointed to receive the fugitive, and to cause the fugitive to be delivered to such agent when he appears.

(2) If no such agent appears within 30 days from the time of the apprehension, the fugitive may be discharged. All costs and expenses incurred in the apprehending, securing, maintaining and transmitting such fugitive to the state making such demand, shall be paid by such state. Any agent so appointed who receives the fugitive into his custody shall be empowered to transmit him to the state from which he has fled.

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The executive authority of this state is hereby vested with the power, on the application of any person interested, to demand the return to this state of any fugitive within the purview of ss. 51.81 to 51.85.

History: 1971 c. 40 s. 93.

51.84 Limitation of time to commence proceeding. Any proceedings under this chapter shall be begun within one year after the flight referred to in ss. 51.81 to 51.85.

History: 1971 c. 40 s. 93.

51.85 Interpretation. Sections 51.81 to 51.85 shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

History: 1971 c. 40 s. 93.