

CHAPTER 253A

HOSPITALIZATION AND COMMITMENT ACT

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253A.01 CITATION. Sections 253A.01 to 253A.21 may be cited as the Minnesota hospitalization and commitment act.
[1967 c 638 s 1]

253A.02 DEFINITIONS. Subdivision 1. For the purposes of sections 253A.01 to 253A.21 the terms defined in this section have the meanings given them.

Subd. 2. "Patient" means any person who qualifies for hospitalization under sections 253A.01 to 253A.21.

Subd. 3. "Mentally ill person" means any person diagnosed as having a psychiatric or other disorder which substantially impairs his mental health and as being in need of treatment or supervision. For the purpose of involuntary commitment of a person as mentally ill it is necessary for the court to find: (a) that the person is a mentally ill person, and (b) that involuntary hospitalization is necessary for the welfare of the person or the protection of society as defined in section 253A.07, subdivision 17, clause (a).

Subd. 4. "Inebriate person" means any person determined as being incapable of managing himself or his affairs by reason of the habitual and excessive use of intoxicating liquors, narcotics, or other drugs. For the purpose of involuntary commitment of a person as inebriate it is necessary for the court to find: (a) that the person is an inebriate person, and (b) that involuntary hospitalization is necessary for the welfare of the person or the protection of society as defined in section 253A.07, subdivision 17, clause (d).

Subd. 5. "Mentally deficient person" means any person who has been diagnosed as having significantly subaverage intellectual functioning existing concurrently with demonstrated deficits in adaptive behavior who is in need of treatment or supervision. For the purpose of involuntary commitment of a person as mentally deficient it is necessary for the court to find: (a) that the person is a mentally deficient person and (b) that involuntary commitment to a residential training center or hospital is necessary for the welfare of the person or the protection of society as defined in section 253A.07, subdivision 17, clause (b).

Subd. 6. "Examiner" means a licensed physician especially qualified in the diagnosis of mental illness, except that where no licensed physician so qualified is available any licensed physician or certified consulting psychologist may be designated.

Subd. 7. "Licensed physician" means a person licensed under the laws of Minnesota to practice medicine or a medical officer of the government of the United States while in Minnesota in performance of his official duties.

Subd. 8. "Hospital" means a public or private hospital, community mental health center, or other institution or part thereof equipped to provide care and treatment for mentally ill, mentally deficient, or inebriate persons.

Subd. 9. "Head of the hospital" means the physician or medical superintendent charged with overall responsibility for the professional program of care and treatment of a hospital or such other members of the medical staff as may be designated by him.

Subd. 10. "Hospital administrator" means any person designated as the administrative head of a hospital or his designees.

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Subd. 11. "Superintendent" means the superintendent of a hospital or such members of the medical staff as he may designate.

Subd. 12. "Commissioner" means the commissioner of public welfare or his designees.

Subd. 13. "Emergency treatment" means the treatment of a patient under the provisions of section 253A.04 which is necessary to protect the patient or others from immediate harm prior to the hearing.

Subd. 14. "Interested person" means an interested responsible adult, including but not limited to a public official, the legal guardian, spouse, parent, legal counsel, adult child, or next of kin of a person allegedly mentally ill, mentally deficient, or inebriate.

Subd. 15. "Peace officer" means a sheriff, or municipal or other local police officer, or a state highway patrol officer when engaged in the authorized duties of his office.

Subd. 16. "Health officer" means a licensed physician, certified consulting psychologist, psychiatric social worker, or psychiatric or public health nurse.

Subd. 17. "A person dangerous to the public" means a person who is mentally ill or mentally deficient and whose conduct might reasonably be expected to produce a clear and present danger of injury to others.

Subd. 18. "Licensed consulting psychologist" means a person as defined by section 148.91, subdivision 4.

Subd. 19. "Committing court" means probate court.

Subd. 20. "Drug dependent person" means any inebriate person or any person incapable of managing himself or his affairs or unable to function physically or mentally in an effective manner because of the use of a psychological or physiological dependency producing drug including alcohol.

Subd. 21. "Residential training center" means a public or private residential facility which is licensed by the department of public welfare and which provides residential care and training to five or more mentally deficient individuals.

Subd. 22. "Regional center" means any state operated facility or hospital under the authority of the commissioner of public welfare for mentally ill, mentally deficient or inebriate persons.

[1967 c 638 s 2; 1971 c 262 s 1; 1971 c 763 s 1; 1971 c 892 s 5; 1974 c 482 s 1,2; 1975 c 208 s 23,24; 1976 c 239 s 79; 1976 c 289 s 2]

253A.03 INFORMAL HOSPITALIZATION BY CONSENT; VOLUNTARY HOSPITALIZATION FOR DRUG DEPENDENT PERSONS. Subdivision 1. Any person may, if he so requests and the head of the hospital consents, be admitted to a hospital as an informal patient for observation, evaluation, diagnosis, care, and treatment, without making formal written application. Such person shall not be admitted to the hospital if he objects thereto and shall be free to leave the hospital within 12 hours of his request unless held under another provision of sections 253A.01 to 253A.21.

Subd. 2. Any person desiring to receive care and treatment at a public hospital as a drug dependent person may be admitted to such hospital upon his application, in such manner and upon such conditions as the commissioner of public welfare may determine. If such person requests to leave the hospital, such request shall be submitted in writing to the head of the hospital. If such person in writing demands his release, the head of the hospital may detain such person for three days, exclusive of Sundays and legal holidays, after the date of such demand for release. If the head of the hospital deems such release not to be for the best interest of such person, his family, or the public, he shall petition for the commitment of such person as provided in section 253A.04, subdivision 3.

[1967 c 638 s 3; 1973 c 572 s 12]

253A.04 EMERGENCY HOSPITALIZATION OF MENTALLY ILL AND MENTALLY DEFICIENT PERSONS. Subdivision 1. Any person may be admitted or held for emergency care and treatment in a hospital with the consent of the head of the hospital upon a written statement by any licensed physician that he has examined the person not more than 15 days prior to the person's admission, that he is of the opinion, for stated reasons, that the person is mentally ill, inebriate or mentally deficient

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and is in imminent danger of causing injury to himself or others if not immediately restrained, and that an order of the court cannot be obtained in time to prevent such anticipated injury. Such physician's statement shall be sufficient authority for a peace or health officer to transport a patient to a hospital.

Subd. 2. A peace or health officer may take a person into custody and transport him to a licensed physician or hospital if such officer has reason to believe that such person is mentally ill or mentally deficient and in imminent danger of injuring himself or others if not immediately restrained. Application for admission of such person to a hospital shall be made by the peace or health officer and the application shall contain a statement given by the peace or health officer stating the circumstances under which such person was taken into custody and the reasons therefor. Such person may be admitted to a hospital for emergency care and treatment pursuant to this subdivision with the consent of the head of the hospital if a written statement is made by the medical officer on duty at the hospital that after preliminary examination the person has symptoms of mental illness or mental deficiency and appears to be in imminent danger of harming himself or others.

A peace or health officer or a person working under such officer's supervision, may take a person who is intoxicated in public into custody and transport him to a licensed hospital, mental health center facility or a person on the staff of a state licensed or approved program equipped to treat drug dependent persons. Provided, if such person is not endangering himself or any other person or property the peace or health officer may transport the person to his home.

Application for admission of an intoxicated person to a hospital, mental health center or other state licensed or approved program equipped to treat drug dependent persons shall be made by the peace or health officer, or a person working under such officer's supervision taking such person into custody and the application shall contain a statement given by the peace or health officer stating the circumstances under which such person was taken into custody and the reasons therefor. Such person may be admitted to a program or facility specified in this provision for emergency care and treatment with the consent of the institution program director or head of the facility.

Subd. 3. Any person hospitalized pursuant to this section may be held up to 72 hours after admission, exclusive of Saturdays, Sundays, and legal holidays, unless a petition for the commitment of such person has been filed in the probate court of the county of residence or of the county wherein such hospital is located. If the head of the hospital deems such discharge not to be for the best interest of the person, his family, or the public and no other petition has been filed, he shall prior to the expiration of 72 hours after admission, exclusive of Saturdays, Sundays, and legal holidays, file a petition for the commitment of such person. Upon the filing of a petition, the court may order the detention of the person until determination of the matter. Upon motion of such hospitalized person the venue of the petition shall be changed to the probate court of the county of the person's residence, if he be a resident of the state of Minnesota.

Subd. 4. Any person admitted pursuant to this section shall be transferred to the informal status provided by section 253A.03 upon his request in writing and with the consent of the head of the hospital.

[1967 c 638 s 4; 1969 c 1043 s 1; 1973 c 572 s 13,14; 1975 c 208 s 25,26]

253A.05 PATIENT'S RIGHT TO COMMUNICATION AND NOTICE THEREOF.

Subdivision 1. From the time of his admission any patient admitted under the provisions of section 253A.03 or section 253A.04 may communicate by all reasonable means with a reasonable number of persons at reasonable hours of the day and night, and may consult privately with an attorney, personal physician and at least one member of his family.

Subd. 2. Any patient admitted under the provisions of section 253A.03 shall be informed in writing prior to admission of his right to object to admission, of his right to leave the hospital as provided in section 253A.03 subject to other provisions of sections 253A.01 to 253A.21, and of his right to communicate as specified in subdivision 1.

Subd. 3. Any patient admitted under the provisions of section 253A.04, subdivisions 1 and 2, shall be informed of his right to communicate as specified in subdivision 1, and of his right to discharge and change of venue under section 253A.04, subdivision 3.

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Subd. 4. The head of the hospital, hospital administrator, or superintendent shall assist any patient in making and presenting written requests for discharge and change of venue.

[1967 c 638 s 5]

253A.06 MEDICAL EXAMINATION OF PERSONS ADMITTED OTHER THAN BY JUDICIAL PROCEDURE. Subdivision 1. The head of a hospital shall arrange to have every patient hospitalized pursuant to section 253A.03 or 253A.04 examined by an examiner forthwith, but in no event more than 48 hours following the date of admission.

Subd. 2. At the end of such period any patient admitted pursuant to section 253A.04 shall be discharged if an examination has not been held or if upon examination the examiner fails to notify the head of the hospital in writing that in his opinion the patient is apparently mentally ill and in need of care, treatment, and evaluation.

[1967 c 638 s 6]

253A.07 JUDICIAL COMMITMENT. Subdivision 1. Any interested person may file in the probate court of the county of the proposed patient's settlement or presence a petition for commitment of a proposed patient, setting forth the name and address of the proposed patient, the name and address of his nearest relatives, and the reasons for the petition. Such petition shall be accompanied either by a written statement by a licensed physician stating that he has examined the proposed patient and is of the opinion that the proposed patient may be mentally ill, mentally deficient, or inebriate, and should be hospitalized, or by a written statement by the petitioner that, after reasonable effort, the petitioner has been unable to obtain an examination by a licensed physician or that an examination could not be performed. Before filing, a copy of the petition shall be delivered by the petitioner to the county welfare department.

Subd. 2. After the filing of the petition the probate court shall appoint two examiners, at least one of whom shall be a licensed physician. If the proposed patient is alleged to be mentally deficient one of the two examiners shall be skilled in the ascertainment of mental deficiency. If the proposed patient is alleged to be drug dependent and if at least one examiner qualified in the field of alcohol and drug abuse cannot be obtained, the court shall appoint a single examiner plus one additional person qualified in the field of alcohol and drug abuse. The final report submitted to the court shall contain all pertinent information and comments preferred by such qualified person. The court shall issue such orders as may be necessary to provide for the examination of the proposed patient which will be conducted prior to the hearing. The examination shall be held at a hospital, a public health facility, the home of the proposed patient, or such other suitable place as the court shall determine is not likely to have a harmful effect on the health of the proposed patient. No persons shall be present during the examination unless authorized by the examiner. The court may require the examiners to file with the court, prior to the hearing two copies of their report as to the condition of the proposed patient and his need for hospitalization, which report, if filed, shall be available to counsel.

Subd. 3. The court may direct a health or peace officer or any other person to take the proposed patient into custody and transport him to a public hospital, private hospital consenting to receive him, public health facility, or other institution, for observation, evaluation, diagnosis, emergency treatment, care, and if necessary, confinement. The order of the court may be executed on any day and at any time thereof, by the use of all necessary means including the breaking open of any place in which the proposed patient is located and the imposition of necessary restraint upon the person of such proposed patient. Unless otherwise ordered by the court, a peace officer taking the proposed patient into custody pursuant to this subdivision shall not be in uniform and shall not use a motor vehicle visibly marked as a police vehicle.

Subd. 4. From the time of his admission any patient admitted under the provisions of this section may communicate by all reasonable means with a reasonable number of persons at reasonable hours of the day and night, and may consult privately with an attorney, at least one member of his family, and with a personal physician. Such patient shall be informed in writing at the time of his admission of his right to communicate as herein specified and of his right to a hearing as provided in subdivision 8 of this section.

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Subd. 5. If the proposed patient has no settlement in this state, the commissioner shall be notified by the court of the proceedings.

Subd. 6. Notice of the filing of the petition and the order for examination shall be given to the proposed patient, his counsel, one interested person other than the proposed patient's counsel and the petitioner, and such other persons as the court directs. Notice shall be served personally on the proposed patient and unless otherwise ordered by the court such notice shall be served on the proposed patient by a non-uniformed person. The contents of all documents served shall be read to the proposed patient. If the court has reason to believe that notice would be likely to be injurious to the proposed patient, notice to the proposed patient may be omitted if a guardian ad litem is appointed by the probate court for receipt of such notice. Such guardian shall represent the proposed patient throughout the action on the petition.

Subd. 7. The probate court shall direct the county welfare department to make an investigation into the financial circumstances, family relationships, residence, social history, and background of such patient and make a report thereof in writing to be filed with the court for the use and guidance of the head of the hospital to which such person may be committed. The court may require that such report be filed prior to the commitment hearing.

Subd. 8. The court shall fix a time and place for the hearing which shall be held within 14 days from the date of the filing of the petition. For good cause shown, the court may extend the time of hearing up to an additional 30 days. When any proposed patient has not had a hearing on a petition filed for his commitment within 14 days from the date of filing of said petition, or within the extended time, the proceedings shall be dismissed. The proposed patient, or the head of a hospital or other institution in which the patient is held, may demand in writing at any time that the hearing be held immediately. Unless the hearing is thereafter held within five days of the date of such demand, exclusive of Saturdays, Sundays and legal holidays, the petition shall be automatically discharged if the patient is being held in a hospital or other institution pursuant to court order. For good cause shown, the court may extend the time of hearing on demand up to an additional 10 days.

Subd. 9. The proposed patient, his counsel, one interested person other than his counsel, the petitioner, and such other persons as the court directs shall be given at least five days' notice by the court that a hearing will be held and at least two days' notice of the time and date of the hearing, unless notice is waived by patient's counsel. The commissioner shall be given ten days' notice by mail of a commitment hearing of a person alleged to be mentally deficient unless such notice is expressly waived by the commissioner.

Subd. 10. The proposed patient, the petitioner, and all other persons to whom notice has been given pursuant to subdivision 9 may attend the hearing and, except for the patient's legal counsel, may testify. The court shall notify such persons of their right to attend the hearing and to testify.

Subd. 11. The proposed patient and the petitioner may present and cross-examine witnesses, including examiners, at the hearing and the court may in its discretion receive the testimony of any other person.

Subd. 12. Subject to the proposed patient's right to attend the hearing, the court in its discretion may permit the proposed patient to be absent from the hearing if the person conducting the hearing shall have observed and consulted with the proposed patient prior to the hearing. The court may exclude from the hearing any person not necessary for the conduct of the proceedings except those persons to whom notice was given pursuant to subdivision 9 and any other persons requested to be present by the proposed patient. At the time of the hearing the patient shall not be so under the influence or so suffer the effects of drugs, medication, or other treatment as to be hampered in preparing for or participating in the proceedings. When in the opinion of the licensed physician attending the patient the discontinuance of drugs, medication, or other treatment is not in the best interest of the patient, the court at the time of the hearing, shall be presented a record of all drugs, medication or other treatment which the patient has received during the 48 hours immediately prior to the hearing.

Subd. 13. The hearing shall be conducted in a manner consistent with orderly procedure and in a physical setting not likely to have a harmful effect on the mental health of the proposed patient. If the proposed patient is to be present, the hearing may be held at a hospital, a public health facility, the proposed patient's residence, or such other suitable and appropriate place as the court may determine. In all such pro-

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ceedings the court shall keep accurate minutes containing, among other appropriate materials, notations of appearances at the hearing, including witnesses, of motions made and the disposition thereof, and of all waivers of rights made by the parties. The court shall have taken and preserved an accurate stenographic record or tape recording of the proceedings. The court shall not be bound by the evidence presented by the examiners but shall make its determination upon the entire record pursuant to the rules of evidence. In all cases the court shall find the facts specifically, state separately its conclusions of law thereon, and direct the entry of an appropriate judgment. Where commitment is ordered under the provisions of subdivision 17, clause (a), the findings of fact and conclusions of law shall specifically include the proposed patient's conduct which is a basis for determining that each of the requisites of subdivision 17, clause (a) is met, including less restrictive alternatives to commitment considered and rejected by the court and the reasons for rejecting each alternative.

Subd. 14. The court shall hear any relevant testimony and shall receive all relevant evidence which may be offered at the hearing.

Subd. 15. In all such proceedings the county attorney may appear and represent the petitioner or shall appear and represent the petitioner upon the request of the judge of probate court or the petitioner. The petitioner shall be notified of his right to request that the county attorney appear. The proposed patient shall be afforded an opportunity to be represented by counsel, and if neither the proposed patient nor others provide counsel, the court at the time the examiners or licensed physicians are appointed shall appoint counsel to represent the proposed patient. Counsel shall consult with the proposed patient prior to the hearing and shall be given adequate time to prepare therefor. Counsel shall have the full right of subpoena.

Subd. 16. If, upon completion of the hearing and consideration of the record, the court finds that the proposed patient is not mentally ill, mentally deficient, or an inebriate, it shall terminate the proceedings, dismiss the application, and discharge the proposed patient forthwith.

Subd. 17. If, upon completion of the hearing and consideration of the record which shall be made pursuant to the rules of evidence, the court finds the proposed patient is:

(a) A mentally ill person, and (1) that the evidence of the proposed patient's conduct clearly shows that his customary self-control, judgment, and discretion in the conduct of his affairs and social relations is lessened to such an extent that hospitalization is necessary for his own welfare or the protection of society; that is, that the evidence of his conduct clearly shows: (i) that he has attempted to or threatened to take his own life or attempted to seriously physically harm himself or others; or (ii) that he has failed to protect himself from exploitation from others; or (iii) that he has failed to care for his own needs for food, clothing, shelter, safety or medical care; and (2) after careful consideration of reasonable alternative dispositions, including but not limited to, dismissal of petition, out-patient care, informal or voluntary hospitalization in a private or public facility, appointment of a guardian, or release before commitment as provided for in section 253A.12, and finds no suitable alternative to involuntary hospitalization, the court shall commit such patient to a public hospital or a private hospital consenting to receive him, subject to a mandatory review by the head of the hospital within 60 days from the date of the order as hereinafter provided;

(b) A mentally deficient person, and (1) that the evidence clearly shows that the person is so deficient in daily living skills, self-control or the conduct of his affairs and social relations that commitment to a residential training center or hospital is necessary for his own welfare or the protection of society; that is, that the evidence clearly shows (i) that he is unable and has not cared for his own needs for food, clothing, shelter, safety or medical care or (ii) that he has failed to protect himself from exploitation from others or (iii) that he has attempted to seriously physically harm himself or others; and (2) after careful consideration of reasonable alternative dispositions, including, but not limited to, dismissal of petition, informal or voluntary placement in a residential training center or hospital, or appointment of a guardian, and finds no suitable alternative to involuntary commitment to a residential training center or hospital, the court shall commit such person to a residential training center or hospital consenting to receive him, subject to a mandatory review by the head of the facility within 60 days from the date of the order as hereinafter provided;

(c) A mentally ill person determined to be in need of commitment in accordance with clauses (a) (1) and (2) above, and a person who is dangerous to the public, the

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court shall commit such patient to a public hospital or a private hospital consenting to receive him, subject to a mandatory review by the head of the hospital within 60 days from the date of the order as hereinafter provided;

(d) An inebriate person, and that commitment to a hospital is necessary for the welfare of the patient or the protection of society, the court shall commit such patient to a public hospital or a private hospital consenting to receive the person, subject to a mandatory review by the head of the hospital within 60 days from the date of the order as hereinafter provided. An initial commitment for inpatient treatment shall not exceed 45 days and any subsequent commitment shall not exceed one year from the date of order except that the head of the hospital may provisionally discharge a patient as part of a treatment plan which may include outpatient care. In no case shall any patient's commitment and provisional discharge, including any revocations or extensions thereof, exceed 18 months.

Subd. 18. [Repealed, 1975 c 208 s 35]

Subd. 19. Whenever a person is committed under subdivision 17, the court shall issue a warrant in duplicate, committing the patient to the custody of the head of the designated hospital or residential training center for the care of mentally ill or inebriate or mentally deficient persons, and the patient shall be transported to the institution as provided in section 253A.09.

Subd. 20. Upon delivery of a patient committed under subdivision 17, clause (a) or (c), to the hospital to which he is committed, the head of the hospital shall retain the duplicate warrant and endorse his receipt upon the original warrant, which shall be filed in the court of commitment. After such delivery the patient shall be under the control and custody of the head of the designated hospital.

Subd. 21. A copy of the petition for commitment, a copy of the court's findings of fact and conclusions of law, a copy of the court order committing the patient, a copy of the report of the medical examiners, and a copy of the social service report shall be transmitted within 14 days to the head of the hospital or residential training center receiving such person.

Subd. 22. The court shall determine the nature and extent of the patient's property and the nature and extent of the property of the persons upon whom liability for such patient's care and support is imposed by law. One copy of such findings shall be filed with the court and another copy shall be transmitted to the commissioner.

Subd. 23. Whenever a patient is committed under subdivision 17, clause (a) or (c), for a 60 day period, he shall be held at the hospital during such period for observation, evaluation, diagnosis, treatment, and care. Every patient admitted to a hospital under such clause shall be examined by at least one examiner as soon as practicable after admission. Within 60 days from the date of the commitment order the head of the hospital shall file a written statement with the court issuing said order, and a copy thereof with the commissioner and the patient's attorney, setting forth findings as to the condition of the patient; a diagnosis of the patient; whether the patient is in need of further care and treatment; whether such care and treatment, if any, must be provided in a hospital and if so what type; whether the patient must be committed to a hospital; and whether the patient is dangerous to the public.

Subd. 24. If no written statement is filed within 60 days or if the written statement describes the patient as not in need of further institutional care and treatment, the proceedings shall be terminated by the court and the patient shall be discharged from the hospital unless the patient was committed as mentally ill and dangerous to the public or as a psychopathic personality, in which case a further hearing shall be held by the committing court within 14 days after the court's receipt of such statement and the committing court shall then make the final determination.

Subd. 25. If the written statement describes the patient as being in need of further institutional care and treatment, the court shall consider such finding in making its final determination, and the court may order hospitalization of the proposed patient for an indeterminate period subject to subdivision 17, clause (d) in the case of inebriate patients. A copy of the final order for commitment shall be forwarded to the head of the proper hospital.

Subd. 26. If, in the case of a person committed under subdivision 17, clause (c), the statement describes the patient as mentally ill but not dangerous to the public, the patient shall not be committed for an indeterminate period as dangerous to the public except following a hearing as provided for in this section. If the statement describes

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the patient as mentally ill and dangerous to the public, the court may order hospitalization of the patient for an indeterminate period. Upon the patient's request the court shall conduct a hearing as provided by this section before final determination.

Subd. 27. At any time prior to the expiration of the 60 day period a patient who has not been committed as mentally ill and dangerous to the public or as a psychopathic personality may be transferred to informal status upon his application in writing with the consent of the head of the hospital. Upon such transfer the head of the hospital shall immediately notify the court in writing and upon receipt of the same the court shall terminate the proceedings.

Subd. 28. During the 60 day period a patient who has not been committed as mentally ill and dangerous to the public or as a psychopathic personality may be placed on provisional discharge as provided in section 253A.15, but unless such discharge is made absolute before the end of the 60 day period the patient shall remain subject to the same laws, rules, and regulations as other patients committed under sections 253A.01 to 253A.21.

Subd. 29. Patients or other responsible persons are required to pay the necessary hospital charges for patients committed or transferred to private hospitals or institutions.

Subd. 30. When, pursuant to an order of a state or federal court, a defendant in a criminal proceeding is examined in the probate court, the probate court shall transmit its findings and return the defendant to such court unless otherwise ordered. A duplicate of the findings shall be filed in the probate court, but there shall be no petition, property report, or commitment unless otherwise ordered.

[1967 c 638 s 7; 1969 c 1043 s 2-4; 1971 c 262 s 2-6; 1973 c 572 s 15; 1974 c 482 s 3-5; 1975 c 208 s 27-29; 1976 c 330 s 1,2; 1977 c 196 s 1]

253A.075 JUDICIAL COMMITMENT PROCEEDINGS; SEALING. Upon petition by a person who has been the subject of a judicial commitment proceeding the probate court for the county in which the petitioner resides shall consider the sealing of all judicial records of the commitment proceedings initiated against the petitioner. The court may seal the commitment records if it finds that access to the records creates undue hardship for the petitioner. All hearings held in proceedings under this section shall be confidential and shall be held in closed court. The files and records of the court in proceedings under this section shall not be open to inspection by any person except the petitioner, or to other persons only upon order by the court.

[1978 c 696 s 1]

253A.08 COMMITMENT TO AN AGENCY OF THE UNITED STATES. Subdivision 1. If the patient is entitled to care by the veterans administration or other agency of the United States in this state, the commitment warrant shall be in triplicate, committing the patient to the joint custody of the head of the hospital or the superintendent of the proper state institution and the institution of the veterans administration or other federal agency. If the veterans administration or other federal agency is unable or unwilling to receive the patient at the time of commitment, the patient may subsequently be transferred to it upon its request.

Subd. 2. Any person, when admitted to an institution of the veterans administration or other federal agency within or without this state, shall be subject to the rules and regulations of the veterans administration or other federal agency, except that nothing in this section shall deprive any such person of rights secured to patients of state mental hospitals by section 253A.16.

Subd. 3. The chief officer of any institution operated by the veterans administration or other agency of the United States to which any person is admitted shall with respect to such person be vested with the same powers as the heads of hospitals for mental diseases within this state with respect to admission, retention of custody, transfer, parole, release, or discharge.

Subd. 4. The judgment or order of commitment by a court of competent jurisdiction of another state or the District of Columbia, committing a person to the veterans administration or other agency of the United States for care or treatment, shall have the same force and effect as to the committed person while in this state as in the jurisdiction in which is situated the court entering the judgment or making the order. Consent is hereby given to the application of the law of the committing state or district in respect to the authority of the chief officer of any facility of the veterans ad-

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ministration, or of any institution operated in this state by any other agency of the United States, to retain custody of, transfer, parole, release, or discharge the committed person.

Subd. 5. Upon receipt of a certificate of the veterans administration or such other agency of the United States that facilities are available for the care or treatment of any person heretofore committed to any hospital for the mentally ill or other institution for the care or treatment of persons similarly afflicted and that such person is eligible for care or treatment, the head of the hospital or institution may cause the transfer of such person to the veterans administration or other agency of the United States for care or treatment. Upon effecting such transfer, the committing court or proper officer thereof shall be notified thereof by the transferring agency. No person shall be transferred to the veterans administration or other agency of the United States if he be confined pursuant to conviction of any felony or misdemeanor or if he has been acquitted of the charge solely on the ground of insanity, unless prior to transfer the court or other authority originally committing such person shall enter an order for such transfer after appropriate motion and hearing.

Written notice of the transfer shall be given to the patient's spouse or parent, or if none be known, to some other interested person.

Any person transferred as provided in this section shall be deemed to be committed to the veterans administration or other agency of the United States pursuant to the original commitment.

[1967 c 638 s 8; 1973 c 658 s 1; 1974 c 162 s 1]

253A.09 TRANSPORTATION. Subdivision 1. Whenever an individual is about to be placed in a hospital or public health facility under the terms of sections 253A.01 to 253A.21, the court may by order:

(a) Upon the request of an interested person, authorize the county welfare department to arrange for the individual's transportation to the hospital with appropriate medical or nursing attendants, and by such means as may be suitable for the individual's condition. The person making the request shall be liable for the cost of such transportation.

(b) Authorize county welfare department or public health facility personnel to transport the individual to the designated facility if the head of the welfare department or health facility has advised the court that such personnel are available for the purpose.

(c) Authorize an interested or any other responsible person to transport the individual to the designated facility.

(d) Authorize a peace officer to transport the individual to the hospital or public health facility. Unless otherwise ordered by the court, the peace officer shall not be in uniform and shall use a motor vehicle not visibly marked as a police vehicle.

Subd. 2. In addition to the persons ordered by the court to transport the patient, the patient may be accompanied by one or more interested persons.

Subd. 3. Whenever a patient being committed under sections 253A.01 to 253A.21 requests a change of venue as provided in sections 253A.01 to 253A.21, or whenever a hearing is to be held for adjudication of a patient's status pursuant to section 253A.19, the transportation of said patient to the hearing shall be provided by the commissioner.

[1967 c 638 s 9]

253A.10 PLACES OF TEMPORARY HOSPITALIZATION. Subdivision 1. Except when ordered by the court, no person apprehended, detained, or hospitalized as mentally ill, mentally deficient, or inebriate under any provision of sections 253A.01 to 253A.21 shall be confined in jail or in any penal or correctional institution.

Subd. 2. Each county or a group of counties or other political subdivisions shall at the expense of the county or participating counties or political subdivisions maintain or provide by contract a facility for hospitalization of persons held temporarily for observation, evaluation, diagnosis, treatment, and care while awaiting a hearing under the terms of sections 253A.01 to 253A.21, and when such hospitalization is provided at a state hospital the commissioner shall charge the responsible county, and shall be paid, at a rate based on the commissioner's determination of the average per capita cost of all maintenance, treatment and expense, other than that paid from the

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Minnesota state building fund, for persons hospitalized pursuant to section 253A.04, subdivision 2 and section 253A.07, subdivision 3 at all of the state hospitals for the mentally ill during the fiscal year previous to the period for which billing is being made.

Subd. 3. A facility may consist of all or a portion of a hospital, licensed nursing home, licensed foster home, or other facility, but shall not be part of a facility used primarily for the detention of individuals charged with or convicted of penal offenses.

Subd. 4. The county welfare board shall take such reasonable measures, including provision for medical treatment, as may be necessary to assure proper care and treatment of a person temporarily detained pursuant to this section.

[1967 c 638 s 10; 1969 c 1043 s 5]

253A.11 NOTICE OF ADMISSION TO HOSPITAL. Whenever a patient has been admitted to a hospital or public health facility under the provisions of sections 253A.04 and 253A.07, the hospital or public health facility shall notify forthwith the patient's spouse or parent, if the patient was not admitted upon the petition of the spouse or parent, and the county of the patient's legal settlement if said county may bear a portion of the cost of hospitalization. If the patient was admitted upon the petition of a spouse or parent the head of the hospital or public health facility shall notify an interested person other than the petitioner.

[1967 c 638 s 11; 1969 c 1043 s 6]

253A.12 RELEASE BEFORE COMMITMENT. Subdivision 1. After the commitment hearing and before a commitment order has been issued, the court may release a proposed patient to the custody of any individual upon such conditions guaranteeing the care and treatment of such patient; but no person against whom a criminal proceeding is pending shall be so released.

Subd. 2. The court, on its own motion or upon the petition of any person, and after a hearing upon such notice as it directs, may revoke any such release and commit the proposed patient in such manner as provided in sections 253A.01 to 253A.21.

[1967 c 638 s 12]

253A.13 [Repealed, 1975 c 208 s 35]

253A.14 TRANSFER. Subdivision 1. The commissioner may transfer any patient who is committed by probate court as mentally ill, mentally deficient, or inebriate from one state hospital or institution to any other hospital or other institution under his jurisdiction which is capable of providing such patient proper care and treatment, unless such patient was found by the committing court to be dangerous to the public or to have a psychopathic personality. Whenever a patient is transferred from one hospital to another written notice shall be given to the probate court if the patient was committed under sections 253A.01 to 253A.21, and to his parent or spouse or, if none be known, to an interested person, and the county welfare board.

Subd. 2. Persons who have been found by the committing court to be dangerous to the public or a psychopathic personality shall not be transferred out of the Minnesota Security Hospital unless it appears to the satisfaction of the commissioner, after a hearing before and a recommendation by the special review board, appointed and acting under and pursuant to section 253A.16 that such transfer is appropriate. The probate court and the county attorney of the county of commitment and the patient and his attorney shall be given notice by the commissioner at least 14 days prior to the hearing of the time and place of the hearing before such special review board.

[1967 c 638 s 14; 1971 c 262 s 7]

253A.15 DISCHARGE. Subdivision 1. The head of a hospital shall discharge any patient admitted as mentally ill, inebriate or mentally deficient when certified by him to be no longer in need of institutional care and treatment, unless such patient was charged with or convicted of a criminal offense, or was found by the committing court to be dangerous to the public or to have a psychopathic personality. In the case of committed patients, other than those committed as mentally ill and dangerous to the public or as a psychopathic personality the head of the hospital may provisionally discharge any such patient; that is, discharge him from the hospital without discharging his commitment. Where such patient was charged with or convicted of a criminal offense, he shall not be discharged except upon order of a court of competent jurisdiction. In cases where the patient was charged with, or convicted of, a criminal offense

the hospital shall notify the court that the patient is no longer in need of institutional care and treatment and the court shall order appropriate disposition of the patient. A patient committed as inebriate shall be subject to discharge pursuant to this section except that his commitment may not exceed the limits set by section 253A.07, subdivision 17, clause (d).

Subd. 2. (a) Where such patient was found by the committing court to be dangerous to the public or to have a psychopathic personality, such patient shall not be discharged or provisionally discharged except upon order of the commissioner and no such discharge or provisional discharge shall be ordered by the commissioner unless he is satisfied that the patient is capable of making an acceptable adjustment in society and unless the commissioner has received a favorable recommendation to that effect by a majority of the special review board appointed and acting under section 253A.16. A petition for an order of discharge or provisional discharge shall be filed with the commissioner and may be filed by the patient or by the head of the hospital. The special review board shall be convened by the commissioner at reasonable intervals and shall hold a hearing on each petition for discharge or provisional discharge prior to making any recommendation thereon. The probate court, the spouse or, if there be none, an adult child or, if there be none, the next of kin of the patient, at their last known address, and the county attorney of the county of commitment, and the petitioner and his attorney, if any, shall each be given written notice by the commissioner of the time and place of the hearing before the special review board at least 14 days prior to the date of such hearing and may appear before the special review board and such persons shall also be given written notice of the making of any such order by the commissioner and a copy of the same within five days after the making and entry of such order, the notice and copy thereof to be furnished by certified mail with return receipt. No order by the commissioner for the discharge or provisional discharge of a patient shall be made effective sooner than 30 days after the making and entry of such order.

(b) There shall be established by the supreme court an appeal panel composed of three probate judges and two alternate probate judges, all of whom shall be appointed from among the acting probate judges of the state by the chief justice of the supreme court for terms of one year each. Only three judges need hear any case. One of the regular three judges so appointed shall be designated as the chief judge of the appeal panel and that judge is hereby vested with power and authority to fix the time and place of all hearings before the panel, issue all notices, subpoena witnesses, appoint counsel for the patient, if necessary, and generally to supervise and direct the operation of the appeal panel. The chief judge shall designate any other judge or any alternate judge to act as chief judge in any case where such chief judge is unable to act and with the same powers and authority. No judge appointed to the appeal panel shall take part in the consideration of any case in which that judge committed the patient in the probate court. The chief justice of the supreme court shall determine the compensation of the judges serving on the appeal panel, such compensation to be in addition to their ordinary compensation as probate judges, and all compensation and expenses of the appeal panel shall be borne by the department of public welfare.

(c) The patient or the county attorney of the county from which the patient was committed aggrieved by the action of the commissioner under clause (a), may petition for a rehearing and reconsideration of the case before the appeal panel. Such petition shall be filed with the supreme court within 30 days after the making and entry of the order of the commissioner. The supreme court shall notify the head of the hospital in which the patient is confined and refer the petition to the chief judge of the appeal panel. Written notice by mail shall be given to the patient, the county attorney of the county of commitment, the commissioner, the head of the hospital in which the patient is confined, the spouse, or, if there be none, an adult child or, if there be none, the next of kin of the patient, at their last known address, and such persons as the chief judge may designate, of the time and place of the hearing on such petition. Such notice is to be given not less than 14 days prior to the date of such hearing, which hearing shall be within 45 days of the filing of the petition. Any person may oppose the petition. The appeal panel may appoint examiners, and may adjourn the hearing from time to time. It shall hear and receive all relevant testimony and evidence and make a record of all such proceedings. The patient and the county attorney of the committing county shall be entitled to be present and to cross-examine all witnesses. A majority of the appeal panel shall make and enter such orders as they may deem just and equitable and the orders of the appeal panel shall supersede all orders of the commissioner in such cases.

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(d) In all proceedings before the appeal panel the patient shall be afforded an opportunity to be represented by counsel, and if neither the patient or others provide counsel the chief judge of the appeal panel shall appoint counsel to represent the patient. The compensation of such appointed counsel shall be determined by the chief judge and the expense thereof shall be borne and paid by the department of public welfare.

(e) The filing with the supreme court of a petition under clause (c) shall immediately suspend the operation of any order for discharge, provisional discharge or release from custody of the patient and said patient shall not thereafter be discharged or released in any manner except upon order of a majority of the appeal panel.

(f) A party aggrieved by an order of the appeal panel may appeal from such decision to the supreme court in the same manner as other appeals in civil actions.

Subd. 3. Except as otherwise authorized by sections 253A.01 to 253A.21, no person with respect to whom proceedings for judicial hospitalization have been commenced shall be released or discharged prior to commitment unless so ordered by the probate court.

Subd. 4. The head of the hospital shall review the facts relating to the activity of a patient on provisional discharge within one year from the date when provisional discharge commenced and unless such patient is readmitted to a hospital within such one year period or unless the period of provisional discharge is extended by the head of the hospital, the provisional discharge shall become absolute and operate to discharge such patient.

Subd. 5. If, while on provisional discharge or extended provisional discharge, a patient is discharged as provided in this section the discharge shall be absolute.

Subd. 6. Notice of the expiration of the one year period or of the extended period shall be given by the head of the hospital to the committing court, the commissioner, and the county welfare board.

Subd. 7. The head of a hospital, upon revoking a provisional discharge or if a patient is absent without authorization, may request the patient to return to the hospital voluntarily, and when necessary may request public health personnel, welfare personnel, or a peace officer to return the patient to the hospital from which he was released or to such other hospital or public health facility as consents to receive him. Public health personnel, welfare personnel, or a peace officer so requested may return the patient to the hospital or to such other hospital or public health facility as consents to receive him. The head of the hospital may inform the committing probate court of such revocation or absence and the court shall direct a health or peace officer in the county where the patient is located to return such patient to the hospital or to such other hospital or public health facility as consents to receive him for further care and treatment in such manner as provided in sections 253A.01 to 253A.21.

The expense of returning the patient to a hospital shall be paid by the commissioner unless paid by the patient or his relatives.

Subd. 8. The head of a hospital may place any patient hospitalized pursuant to sections 253A.01 to 253A.21 on a status of partial hospitalization. Such status shall allow the patient to be absent from the hospital for certain fixed periods of time. Such patient shall be placed on such status in a state hospital under such terms and conditions as are established by the commissioner. The head of the hospital may terminate such status at any time.

Subd. 9. When a committed patient is discharged, provisionally discharged, transferred to another hospital, released, or partially hospitalized, or when he dies, is absent without authorization, or is returned, the hospital having custody of the patient shall file notice thereof in the court of commitment.

Subd. 10. The hospital administrator shall make such arrangements at the expense of the state as may be necessary to insure that no patient is discharged, provisionally discharged, or released without suitable clothing. The head of a public hospital shall, if necessary, provide such patient with a sufficient sum of money to secure transportation home, or to another destination of his choice, if such destination is located within a reasonable distance of the hospital, which sum shall be paid out of the current expense fund of the hospital or institution.

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Subd. 11. (a) The head of any hospital, prior to the discharge or provisional discharge of any patient committed as mentally ill, mentally deficient, or inebriate, shall notify the patient's spouse, or if there be none, an adult child, or if there be none, the next of kin of the patient, of the proposed discharge date. The notice shall be sent to the last known address of the patient's next of kin by certified mail with return receipt. Further, the notice shall include the following information: (1) the proposed date of discharge or provisional discharge; (2) the date, time and place of the meeting of the staff, who have been treating the patient, to discuss discharge and discharge planning; (3) that the patient will be present at the meeting; (4) that the next of kin may attend the designated staff meeting and present any information relevant to the discharge of the patient. The notice shall be sent to the next of kin at least one week prior to the date designated for the meeting.

(b) The head of any hospital, upon the provisional discharge, partial hospitalization, or release of any patient hospitalized under sections 253A.01 to 253A.21, shall notify the welfare board and in the event the patient is a drug dependent person the community mental health center of the county of such patient's residence before the patient is to leave the hospital. Whenever possible said notice shall be given at least one week before the patient is to leave the hospital. The commissioner shall provide by regulation the procedure and methods whereby such patient shall be helped to receive all public assistance benefits provided by state or federal law to which his residence and circumstances entitle him. Such regulations shall be uniformly applied in all counties, and all counties shall provide temporary relief whenever necessary to meet the intent of this subdivision.

Subd. 12. Prior to the date of discharge, provisional discharge, partial hospitalization, or release of any patient hospitalized under sections 253A.01 to 253A.21, the county welfare board of the county of such patient's residence, in cooperation with the head of the hospital where the patient is hospitalized, the director of the community health center service of said area, and the patient's physician, if notified pursuant to subdivision 13, shall establish a continuing plan of after-care services for such patient including a plan for medical and psychiatric treatment, nursing care, vocational assistance, and such other aid as the patient shall need. It shall be the duty of such welfare board to supervise and assist such patient in finding employment, suitable shelter, and adequate medical and psychiatric treatment, and to aid in his readjustment to the community.

Subd. 13. In establishing such plan for after-care services the county welfare board shall engage in such consultation with persons or agencies, including any public health nurse and vocational rehabilitation personnel, as is necessary to insure adequate planning for after-care services.

Subd. 14. The head of the hospital shall notify the physician of any patient hospitalized pursuant to sections 253A.01 to 253A.21 at the time of such patient's discharge, provisional discharge, partial hospitalization, or release, unless such patient shall object to such notice.

Subd. 15. A patient who has been hospitalized under sections 253A.01 to 253A.21 may at any time after discharge, provisional discharge, partial hospitalization, or release, apply to the head of any public hospital within whose district he resides for treatment. If the head of the hospital determines that the applicant requires such service he may provide, under the medical supervision of a physician in the hospital, such services related to mental illness as are required for the mental health of such applicant. Such service shall be provided in state hospitals under terms and conditions established by the commissioner.

Subd. 16. Any person may apply to the head of any public hospital within whose district he resides for treatment. If his condition warrants he may be enrolled as an outpatient and receive treatment during such enrollment while under medical supervision of a hospital physician. Such service shall be provided in state hospitals under terms and conditions established by the commissioner.

Subd. 17. The application prescribed in subdivision 15 may be made by any person 18 years of age or older, or on behalf of a person under the age of 18 years by his parent, guardian, or custodian, or on behalf of a person 18 years of age or older by his guardian or custodian.

[1967 c 638 s 15; 1971 c 262 s 8,9; 1971 c 892 s 6; 1973 c 717 s 11; 1975 c 208 s 30; 1976 c 302 s 1,2; 1976 c 330 s 3; 1978 c 560 s 5; 1978 c 674 s 60]

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253A.16 REVIEW BOARDS. Subdivision 1. There shall be established by the commissioner for each state hospital a review board of three or more persons to review the admission and retention of patients hospitalized under this chapter. One of such persons shall be qualified in the diagnosis of mental illness or mental deficiency and one of such persons shall be learned in the law. The commissioner may, upon written request from the appropriate federal authority, establish a review panel for any federal hospital within the state to review the admission and retention of patients hospitalized under this chapter. For any review board established for a federal hospital, one of the persons appointed by the commissioner shall be the commissioner of veterans affairs or his designee.

Subd. 2. Each hospital shall be visited by the review board at least once every six months. Each patient in the hospital who so requests shall have the right to appear before the review board during such visit. A patient may at any time request the right to appear before the review board. Upon receiving such request the head of the hospital shall notify the commissioner who shall set a time and date for the patient's appearance before the review board.

Subd. 3. The head of the hospital shall notify each patient at the time of admission by a simple written statement of the patient's right to appear before the review board and the next date when the board will visit the hospital. A request to appear before the board does not have to be in writing. Any employee of the hospital receiving such a request to appear before the board shall notify the head of the hospital of such request.

Subd. 4. The board shall review the admission and retention of patients at its respective mental hospital. The board may examine the records of all patients admitted and may examine personally at its own instigation all patients who from the records or otherwise appear to justify reasonable doubt as to continued need of confinement in a mental hospital. The board shall report its findings to the commissioner and to the head of the hospital. The board may also receive reports from patients and interested persons, including but not limited to hospital employees, on conditions affecting the humane and dignified care of patients and the board may examine the circumstances thereof in the manner described in this subdivision.

Subd. 5. There shall be established by the commissioner one special review board for mentally ill and dangerous and psychopathic personalities, of three members, all of whom shall be experienced in the field of mental illness. One member of the special review board shall be a physician qualified in the diagnosis of mental illness or mental deficiency, one member shall be an attorney and no member shall be connected with the department of public welfare. This special review board shall meet at least every six months and be otherwise on call of the commissioner and shall hear and consider all petitions for transfer out of the Minnesota Security Hospital, discharge or provisional discharge filed under and pursuant to sections 253A.14 and 253A.15, and make recommendations to the commissioner concerning the same.

Subd. 6. Each member of the review board and the special review board shall receive as compensation the sum of \$50 per day or any portion thereof spent in discharge of his official duties. In addition to the compensation so provided, each member of the review board and the special review board shall be reimbursed for all expenses paid or incurred by him in the performance of his official duties.

[1967 c 638 s 16; 1971 c 262 s 10-13; 1973 c 552 s 1; 1975 c 174 s 1-4]

253A.17 RIGHTS OF PATIENTS. Subdivision 1. Restraints shall not be applied to a patient unless the head of the hospital or a member of the medical staff determines that they are necessary for the safety of the patient or others. Each use of a restraint and reason therefor shall be made part of the clinical record of the patient under the signature of the head of the hospital or a member of the medical staff.

Subd. 2. Any patient may correspond by sealed mail or otherwise, freely without censorship, with the governor, the commissioner, the court, and any official agency, and may communicate without censorship by sealed mail or any other means with his physician and one or more attorneys.

Subd. 3. Any patient of a state hospital or institution may select a correspondent outside the institution with whom he may freely correspond without censorship. The head of the hospital shall register the name and postoffice address of every such correspondent. Within three days after such selection by a patient the head of the hospital shall notify the correspondent thereof and, in case of his refusal to act, shall notify

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the patient, who may select another. Each correspondent shall endorse his name and address upon all envelopes sent to such patient.

Subd. 4. Such patient shall be furnished with necessary paper and stamped envelopes for such correspondence, and with a postal card addressed to himself, having a form of receipt for the letter on the reverse side, to be enclosed therein. Such letter and postal card, when enveloped, sealed, directed, and delivered to the head of the hospital or an assistant physician, shall be mailed forthwith without being opened or read. Every letter received from such correspondent shall be delivered to the patient unopened. The facts in reference to such correspondence shall be at once entered in the register.

Subd. 5. The correspondence rights enumerated in subdivisions 2, 3, and 4 may be restricted by the head of the hospital if he determines that the medical welfare of the patient so requires. Such determination may be reviewed by the commissioner. Any mail or other communication which is not delivered to the patient for whom it is intended shall be immediately returned to the sender. Any limitation imposed by the head of the hospital on the exercise of a patient's correspondence rights and the reason for such limitation shall be made a part of the clinical record of the patient.

Subd. 6. Subject to the general rules of the hospital and subject to the determination by the head of the hospital that it is necessary for the medical welfare of the patient to impose restrictions, every patient shall be entitled to receive visitors. The patient's personal physician, spiritual advisor and attorney shall be permitted to visit the patient at all reasonable times, and the patient shall not be denied the right to continue the practice of his religion in accordance with its tenets during his confinement.

Subd. 7. The head of a hospital shall have the physical and mental condition of every patient assessed as frequently as necessary, but not less often than annually.

Subd. 8. The head of a state hospital shall obtain consent for a surgical operation necessary to save the life, health, eyesight, hearing, or a limb of any patient, from the proper relatives or guardian. If such persons cannot be found after diligent search, or in the case of an emergency, the head of the hospital, upon being notified of the pertinent medical facts, may give such consent. The commissioner shall be notified forthwith of such emergency operation. When in the opinion of the head of a hospital having custody of the patient, a patient who has not been adjudged legally incompetent has sufficient capacity to make a responsible decision, the patient's consent shall be obtained before such surgery. In such cases the patient's consent shall be determinative and no other consent is necessary; provided, however, that in the case of a minor, consent shall also be obtained from his parent, guardian, or custodian. No person who consents to the performance of a surgical operation pursuant to the provisions of this subdivision shall be civilly or criminally liable for the performance or the manner of performing such operation. No person who acts within the scope of the authority conferred by such consent in the course of discharging his official duties shall be civilly or criminally liable for the performance of such operation, but sections 253A.01 to 253A.21 shall not affect any liability which he may incur as a consequence of the manner in which such operation is performed.

Subd. 9. Every person hospitalized or otherwise receiving services under sections 253A.01 to 253A.21 shall be entitled to receive proper care and treatment, best adapted, according to contemporary professional standards, to rendering further custody, institutionalization, or other services unnecessary. To this end the head of the hospital shall devise or cause to be devised for each person so hospitalized a written program plan which shall describe in behavioral terms the case problems, and the precise goals, including the expected period of time for hospitalization, and the specific measures to be employed in the solution or easement of said problems. Each plan shall be reviewed at not less than quarterly intervals to determine progress toward the goals, and to modify the program plan as necessary. The program plan shall be devised and reviewed in each instance with the appropriate county welfare department, and with the patient. The hospital record shall attest to the program plan review. If the county welfare department or the patient does not so participate in the planning and review, the hospital record shall include reasons for non-participation and the plans for future involvement.

The department of public welfare shall monitor the aforementioned program plan and review process to insure compliance with the provisions of this subdivision.

[1967 c 638 s 17; 1973 c 552 s 2; 1978 c 560 s 6]

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253A.18 INCOMPETENCY. Subdivision 1. Except as otherwise provided in sections 253A.01 to 253A.21, and in sections 246.15 and 246.16, no person by reason of commitment, hospitalization, or treatment pursuant to sections 253A.01 to 253A.21 shall be deprived of any legal right, including but not limited to the right to dispose of property, sue and be sued, execute instruments, make purchases, enter into contractual relationships, vote, and hold a driver's license. Commitment, hospitalization, or treatment of any patient pursuant to sections 253A.01 to 253A.21 is not a judicial determination of legal incompetency except to the extent provided in section 253A.17, subdivision 8.

Subd. 2. Proceedings for determination of legal incompetency and the appointment of a guardian for a person subject to hospitalization under sections 253A.01 to 253A.21 may be commenced before, during, or after commitment proceedings have been instituted and may be conducted jointly with such commitment proceedings. The court shall notify the head of the hospital to whom the patient is committed of a finding that the patient is incompetent.

Subd. 3. Where the person to be committed is a minor or owns property of value and it appears to the court that such person is not competent to manage his estate, the court shall appoint a guardian of such person's estate, either general or special as otherwise provided by law.

[1967 c 638 s 18]

253A.19 JUDICIAL DETERMINATION OF MENTAL COMPETENCY AND NEED FOR HOSPITALIZATION. Subdivision 1. Any interested person may petition the court of commitment or the court to which venue has been transferred for an order adjudicating that a patient is not now in need of continued hospitalization or for an order adjudicating that an individual is not now mentally ill, mentally deficient, or inebriate, or for an order restoring a patient to legal capacity, or for such other order as the court may deem just and equitable.

Subd. 2. Upon the filing of the petition the court shall fix the time and place for the hearing thereof, ten days' notice of which shall be given to the county attorney and to the commissioner, if he did not file the petition. Notice shall be given to the patient, his legal counsel, the head of the hospital in which the patient resides, and such other persons and in such manner as the court directs. Any person may oppose the petition.

Subd. 3. The court may appoint two examiners if the patient is alleged to be mentally ill; otherwise the court may appoint one licensed physician and in addition thereto may appoint a person skilled in the ascertainment of mental deficiency to examine the patient.

Subd. 4. The patient and the petitioner shall be entitled to be present and cross-examine witnesses including any licensed physician and examiners. The court shall hear any relevant testimony and shall receive all relevant evidence which may be offered at the hearing.

Subd. 5. Upon proof of the allegations of the petition, the court shall enter an order adjudicating that the patient is not now in need of continued hospitalization and upon proper proof thereof shall order that an individual is not now mentally ill, mentally deficient, or inebriate, or may restore the patient to legal capacity, or may enter such other order as the court may deem equitable and just.

Subd. 6. The county attorney shall attend the hearing and shall oppose the restoration of the patient in the probate court and in the appellate courts, if he deems it for the best interest of the public.

Subd. 7. A copy of said order shall be mailed to the head of the hospital where the patient was last confined. The head of the hospital, upon receipt thereof, shall then comply with such order.

Subd. 8. The attorney general shall represent the commissioner in such proceedings.

Subd. 9. In all such proceedings the patient shall be afforded an opportunity to be represented by counsel, and if neither the patient nor others provide counsel the court shall appoint counsel to represent the patient.

[1967 c 638 s 19]

253A.20 COSTS OF HEARINGS. Subdivision 1. In each proceeding under sections 253A.01 to 253A.21 the court shall allow and order paid to each witness subpoenaed the fees and mileage prescribed by law; to each examiner a reasonable sum for his services and for travel; to persons, including county welfare or public health personnel, conveying the patient to the place of detention, disbursements for the travel, board, and lodging of the patient and of themselves and their authorized assistants; and to the patient's counsel, when appointed by the court, a reasonable sum for travel and for each day or portion thereof actually employed in court or actually consumed in preparing for the hearing. Upon such order the county auditor shall issue a warrant on the county treasurer for payment of the amounts allowed.

Subd. 2. When the settlement of the patient is found to be in another county, the court shall transmit to the county auditor a statement of the expenses of the taking into custody, confinement, examination, commitment, conveyance to the place of detention, and rehearing. The auditor shall transmit the statement to the auditor of the county of the patient's settlement and this claim shall be paid as other claims against that county. If the auditor to whom this claim is transmitted denies the claim, he shall transmit it, together with his objections thereto, to the commissioner, who shall determine the question of settlement and certify his findings to each auditor. If the claim is not paid within 30 days after such certification, an action may be maintained thereon in the district court of the claimant county.

Subd. 3. Whenever venue of a proceeding has been transferred under sections 253A.01 to 253A.21 the costs of such proceedings shall be reimbursed to the county of the patient's settlement by the state.

[1967 c 638 s 20]

253A.21 GENERAL PROVISIONS. Subdivision 1. Any person who willfully makes, joins in, or advises the making of any false petition or report, or knowingly or willfully makes any false representation for the purpose of causing such petition or report to be made or for the purpose of causing an individual to be improperly hospitalized under sections 253A.01 to 253A.21, is guilty of a gross misdemeanor and may be punished by imprisonment in the state prison for not more than one year or by a fine of not more than \$500. The attorney general or his designees shall conduct any prosecution for the violation of this section.

Subd. 2. All persons acting in good faith, upon either actual knowledge or information thought by them to be reliable, who act pursuant to any provision of this chapter or who procedurally or physically assist in the hospitalization of any individual, pursuant to sections 253A.01 to 253A.21, are not subject to any civil or criminal liability under sections 253A.01 to 253A.21. Any medical privilege otherwise existing between patient and physician is waived as to any physician who provides information with respect to a patient pursuant to any provision of this chapter.

Subd. 3. Nothing in sections 253A.01 to 253A.21 shall be construed to abridge the right of any person to the writ of habeas corpus.

Subd. 4. The court commissioner may act for the probate judge upon a petition for the commitment of a patient when the probate judge is unable to act.

Subd. 5. The commissioner or any other aggrieved party may appeal to the district court from any order entered under sections 253A.01 to 253A.21 in the manner prescribed in section 487.39.

Upon perfection of the appeal, the return shall be filed forthwith. The district court shall give the appeal preference over every other proceeding therein. Such appeal shall not suspend the operation of the order appealed from until the appeal is determined, unless otherwise ordered by the district court. Notwithstanding any contrary provision in section 487.39, an appeal may be taken from the determination of a district court judge to the supreme court without leave of the supreme court in cases in which the district court upholds an order committing a person under section 253A.07, subdivision 17 or an order denying a petition under section 253A.19.

Subd. 6. The commissioner shall establish such rules and regulations not inconsistent with the provisions of sections 253A.01 to 253A.21 as he may find to be necessary for the proper and efficient administration thereof and shall prescribe the form of applications, records, reports, and medical certificates required by sections 253A.01 to 253A.21 and the information to be contained therein.

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Subd. 7. Sections 253A.01 to 253A.21 apply to any conduct, transaction, or proceeding within its terms which occurs after January 1, 1968; provided, however, that a proceeding for the commitment of a person to a hospital commenced before January 1, 1968 is governed by the law existing at the time the proceeding was commenced, and unless such proceedings are terminated within 12 months after January 1, 1968, they shall thereafter be governed by the provisions of sections 253A.01 to 253A.21.

Subd. 8. For purposes of taking an appeal or petition for habeas corpus or for a judicial determination of mental competency or need for hospitalization, transcripts of commitment proceedings, or portions thereof, shall be made available to the parties upon written application to the court. Upon a showing by a party that he is unable to pay the cost of such transcripts or portions thereof they shall be made available at no expense to such party.

[1967 c 638 s 21; 1974 c 482 s 6,7]