

ASSEMBLY BILL NO. 6—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON HEALTH CARE)

PREFILED DECEMBER 2, 2008

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing certain emergency admissions to mental health facilities and hospitals. (BDR 39-211)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to mental health; authorizing the release of certain persons admitted to mental health facilities or hospitals under the procedures for emergency admission; revising provisions relating to the process for emergency admissions of persons alleged to be persons with mental illness to certain mental health facilities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law prescribes the procedures for emergency admission to a mental
2 health facility or hospital. (NRS 433A.145, 433A.150, 433A.160) Under existing
3 law, a person with mental illness who voluntarily admits himself and whose status
4 is changed to an emergency admission must not be detained more than 48 hours
5 after the change in status is made. (NRS 433A.145) Under existing law, a person
6 who is alleged to be a person with mental illness must be released within 72 hours
7 after an emergency admission. (NRS 433A.150) **Sections 3 and 4** of this bill
8 provide that a facility may continue to detain a person if a petition is filed by the
9 end of the business day on which the 48 hours or 72 hours, whichever is applicable,
10 expires. **Sections 1, 3 and 4** of this bill authorize the release of a person who is
11 admitted under an emergency admission if a licensed physician on the medical staff
12 of the mental health facility or hospital signs a certificate stating that the physician
13 has examined the person and that the person is not a person with mental illness.
14 **Section 5** of this bill changes the time before which a person alleged to be a
15 person with a mental illness must be examined by one of certain enumerated
16 medical professionals from before the person may be transported to before the
17 person may be admitted to a public or private mental health facility under an



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emergency admission. **Section 5** also requires a petition to be filed with a district court if a person with a mental illness must be held for more than 72 hours for the treatment of a medical condition, other than a psychiatric illness, before being admitted to a mental health facility. (NRS 433A.165)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 433A of NRS is hereby amended by adding thereto a new section to read as follows:

A licensed physician on the medical staff of a facility operated by the Division or of any other public or private mental health facility or hospital may release a person admitted pursuant to NRS 433A.160 upon completion of a certificate which meets the requirements of NRS 433A.180 signed by a licensed physician on the medical staff of the facility or hospital stating that he has personally observed and examined the person and that he has concluded that the person is not a person with a mental illness.

Sec. 2. NRS 433A.115 is hereby amended to read as follows:

433A.115 1. As used in NRS 433A.115 to 433A.330, inclusive, *and section 1 of this act*, unless the context otherwise requires, "person with mental illness" means any person whose capacity to exercise self-control, judgment and discretion in the conduct of his affairs and social relations or to care for his personal needs is diminished, as a result of a mental illness, to the extent that he presents a clear and present danger of harm to himself or others, but does not include any person in whom that capacity is diminished by epilepsy, mental retardation, ~~[Alzheimer's disease,]~~ *dementia, delirium*, brief periods of intoxication caused by alcohol or drugs, or dependence upon or addiction to alcohol or drugs, unless a mental illness that can be diagnosed is also present which contributes to the diminished capacity of the person.

2. A person presents a clear and present danger of harm to himself if, within the ~~[next]~~ *immediately* preceding 30 days, he has, as a result of a mental illness:

(a) Acted in a manner from which it may reasonably be inferred that, without the care, supervision or continued assistance of others, he will be unable to satisfy his need for nourishment, personal or medical care, shelter, self-protection or safety, and if there exists a reasonable probability that his death, serious bodily injury or physical debilitation will occur within the next following 30 days unless he is admitted to a mental health facility pursuant to the provisions of NRS 433A.115 to 433A.330, inclusive, *and section 1 of this act* and adequate treatment is provided to him;



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(b) Attempted or threatened to commit suicide or committed acts in furtherance of a threat to commit suicide, and if there exists a reasonable probability that he will commit suicide unless he is admitted to a mental health facility pursuant to the provisions of NRS 433A.115 to 433A.330, inclusive, *and section 1 of this act* and adequate treatment is provided to him; or

(c) Mutilated himself, attempted or threatened to mutilate himself or committed acts in furtherance of a threat to mutilate himself, and if there exists a reasonable probability that he will mutilate himself unless he is admitted to a mental health facility pursuant to the provisions of NRS 433A.115 to 433A.330, inclusive, *and section 1 of this act* and adequate treatment is provided to him.

3. A person presents a clear and present danger of harm to others if, within the ~~next~~ *immediately* preceding 30 days, he has, as a result of a mental illness, inflicted or attempted to inflict serious bodily harm on any other person, or made threats to inflict harm and committed acts in furtherance of those threats, and if there exists a reasonable probability that he will do so again unless he is admitted to a mental health facility pursuant to the provisions of NRS 433A.115 to 433A.330, inclusive, *and section 1 of this act* and adequate treatment is provided to him.

Sec. 3. NRS 433A.145 is hereby amended to read as follows:

433A.145 1. If a person with mental illness is admitted to a public or private mental health facility or hospital as a voluntary client, the facility or hospital shall not change the status of the person to an emergency admission unless the hospital or facility receives, before the change in status is made, an application for an emergency admission pursuant to NRS 433A.160 and the certificate of a psychiatrist, psychologist or physician pursuant to NRS 433A.170.

2. A person whose status is changed pursuant to subsection 1 must not be detained in excess of 48 hours after the change in status is made, unless ~~{within that period}~~ *, before the close of the business day on which the 48 hours expires*, a written petition is filed with the clerk of the district court pursuant to NRS 433A.200.

3. If the period specified in subsection 2 expires on a day on which the office of the clerk of the district court is not open, the written petition must be filed on or before the close of the business day next following the expiration of that period.

Sec. 4. NRS 433A.150 is hereby amended to read as follows:

433A.150 1. Any person alleged to be a person with mental illness may, upon application pursuant to NRS 433A.160 and subject to the provisions of subsection 2, be detained in a public or private mental health facility or hospital under an emergency admission for evaluation, observation and treatment.



2. Except as otherwise provided in subsection 3, a person detained pursuant to subsection 1 must be released within 72 hours, including weekends and holidays, after the *certificate required pursuant to NRS 433A.170 and the* examination required by paragraph (a) of subsection 1 of NRS 433A.165 ~~has~~ *have* been completed, if such an examination is required, or within 72 hours, including weekends and holidays, after the person arrives at the mental health facility or hospital, if an examination is not required by paragraph (a) of subsection 1 of NRS 433A.165, unless ~~[within that period]~~, *before the close of the business day on which the 72 hours expires*, a written petition for an involuntary court-ordered admission is filed with the clerk of the district court pursuant to NRS 433A.200, including, without limitation, the documents required pursuant to NRS 433A.210, or the status of the person is changed to a voluntary admission.

3. If the period specified in subsection 2 expires on a day on which the office of the clerk of the district court is not open, the written petition must be filed on or before the close of the business day next following the expiration of that period.

Sec. 5. NRS 433A.165 is hereby amended to read as follows:

433A.165 1. Before a person alleged to be a person with mental illness may be ~~[transported]~~ *admitted* to a public or private mental health facility pursuant to NRS 433A.160, the person must:

(a) First be examined by a licensed physician or physician assistant licensed pursuant to chapter 630 or 633 of NRS or an advanced practitioner of nursing *at any location where such a physician, physician assistant or advanced practitioner of nursing is authorized to conduct such an examination* to determine whether the person has a medical problem, other than a psychiatric problem, which requires immediate treatment; and

(b) If such treatment is required, be admitted for the appropriate medical care:

(1) To a hospital if the person is in need of emergency services or care; or

(2) To another appropriate medical facility if the person is not in need of emergency services or care.

2. *If a person with a mental illness has a medical problem in addition to a psychiatric problem which requires medical treatment that requires more than 72 hours to complete, the licensed physician or physician assistant licensed pursuant to chapter 630 or 633 of NRS or an advanced practitioner of nursing who examined the person must:*

(a) *On the first business day after determining that such medical treatment is necessary file with the clerk of the district court a written petition to admit the person to a public or private*



1 *mental health facility pursuant to NRS 433A.160 after the medical*
2 *treatment has been completed. The petition must:*

3 *(1) Include, without limitation, the medical condition of the*
4 *person and the purpose for continuing the medical treatment of*
5 *the person; and*

6 *(2) Be accompanied by a copy of the application for the*
7 *emergency admission of the person required pursuant to NRS*
8 *433A.160 and the certificate required pursuant to NRS 433A.170.*

9 *(b) Seven days after filing a petition pursuant to paragraph (a)*
10 *and every 7 days thereafter, file with the clerk of the district court*
11 *an update on the medical condition and treatment of the person.*

12 **3.** The examination and any transfer of the person from a
13 facility when the person has an emergency medical condition and
14 has not been stabilized must be conducted in compliance with:

15 (a) The requirements of 42 U.S.C. § 1395dd and any regulations
16 adopted pursuant thereto, and must involve a person authorized
17 pursuant to federal law to conduct such an examination or certify
18 such a transfer; and

19 (b) The provisions of NRS 439B.410.

20 ~~[3-]~~ **4.** The cost of the examination must be paid by the county
21 in which the person alleged to be a person with mental illness
22 resides if services are provided at a county hospital located in that
23 county or a hospital or other medical facility designated by that
24 county, unless the cost is voluntarily paid by the person alleged to
25 be a person with mental illness or, on his behalf, by his insurer or by
26 a state or federal program of medical assistance.

27 ~~[4-]~~ **5.** The county may recover all or any part of the expenses
28 paid by it, in a civil action against:

29 (a) The person whose expenses were paid;

30 (b) The estate of that person; or

31 (c) A responsible relative as prescribed in NRS 433A.610, to the
32 extent that financial ability is found to exist.

33 ~~[5-]~~ **6.** The cost of treatment, including hospitalization, for ~~[an]~~
34 *a person who is* indigent must be paid pursuant to NRS 428.010 by
35 the county in which the person alleged to be a person with mental
36 illness resides.

37 ~~[6-]~~ **7.** *The provisions of this section do not require the*
38 *Division to provide examinations required pursuant to subsection*
39 *1 at a Division facility if the Division does not have the:*

40 *(a) Appropriate staffing levels of physicians, physician*
41 *assistants, advanced practitioners of nursing or other appropriate*
42 *staff available at the facility as the Division determines is*
43 *necessary to provide such examinations; or*

44 *(b) Appropriate medical laboratories as the Division*
45 *determines is necessary to provide such examinations.*



8. The Division shall adopt regulations to carry out the provisions of this section, including, without limitation, regulations that:

(a) Define “emergency services or care” as that term is used in this section; and

(b) Prescribe the type of medical facility that a person may be admitted to pursuant to subparagraph (2) of paragraph (b) of subsection 1.

~~[7-]~~ 9. As used in this section, “medical facility” has the meaning ascribed to it in NRS 449.0151.

Sec. 6. NRS 433A.180 is hereby amended to read as follows:

433A.180 ~~[No]~~

1. An application or certificate authorized under *subsection 1 of NRS 433A.160 or NRS 433A.170* ~~[may]~~ *or section 1 of this act must not* be considered if made by a psychiatrist, psychologist or physician who is related by blood or marriage *within the first degree of consanguinity or affinity* to the person alleged to be a person with mental illness, or who is financially interested in the facility in which the person alleged to be a person with mental illness is to be detained. ~~[No]~~

2. An application or certificate of any examining person authorized under NRS 433A.170 ~~[may]~~ *must not* be considered unless it is based on personal observation and examination of the person alleged to be a person with mental illness made by such examining person not more than 72 hours prior to the making of the application or certificate. The certificate ~~[shall]~~ *required pursuant to NRS 433A.170 must* set forth in detail the facts and reasons on which the examining person based his opinions and conclusions.

3. *A certificate authorized pursuant to section 1 of this act must not be considered unless it is based on personal observation and examination of the person alleged to be a person with mental illness made by the examining physician. The certificate authorized pursuant to section 1 of this act must set forth in detail the facts and reasons on which the examining physician based his opinions and conclusions.*

