

ASSEMBLY BILL NO. 85—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE NORTHERN REGIONAL
BEHAVIORAL HEALTH POLICY BOARD)

PREFILED NOVEMBER 21, 2018

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing mental health.
(BDR 39-443)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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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; requiring the adoption of regulations governing the involuntary administration of medication to persons with mental illness and the medical examination of a person alleged to be a person in a mental health crisis; authorizing the adoption of regulations concerning the plan for the discharge of a person admitted to a mental health facility or hospital; revising certain terminology and standardizing certain time periods relating to admission to mental health facilities; revising the authority of certain accredited agents to make certain certifications and transport persons with mental illness; revising the procedure for proceedings for the involuntary court-ordered admission of a person to a mental health facility or a program of community-based or outpatient services; authorizing the disclosure to a provider of health care of certain information related to a person who seeks mental health services; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law requires the State Board of Health to adopt regulations for the care
- 2 and treatment of persons with mental illness. (NRS 433.324) **Section 1** of this bill
- 3 requires those regulations to include regulations governing the procedure for the



involuntary administration of medication to such persons. **Section 5** of this bill authorizes the Board to adopt regulations requiring a public or private mental health facility or hospital to adopt a plan for the discharge of a person admitted to the facility or hospital. **Section 5** further requires such facilities to report certain information concerning emergency admissions to the Division of Public and Behavioral Health of the Department of Health and Human Services.

Section 7 of this bill replaces the term "person with mental illness," as used in provisions concerning the admission of a person to mental health facility or hospital, with the term "person in a mental health crisis." **Section 7** defines the term "person in a mental health crisis" to mean any person: (1) who has been diagnosed with mental illness; and (2) whose capacity to exercise self-control, judgment and discretion in the conduct of the person's affairs and social relations or to care for his or her personal needs is diminished, as a result of the mental illness, to the extent that the person presents a substantial likelihood of serious harm to himself or herself or others. **Section 4** of this bill prescribes the criteria for determining when a person presents a substantial likelihood of serious harm to himself or herself or others. **Sections 2, 6, 9-23, 26, 27, 29 and 32** of this bill make conforming changes.

Existing law requires a person admitted to a public or private mental health facility on a voluntary basis to be released immediately upon request unless, within 24 hours after the request, the facility changes the status of the person to an emergency admission. (NRS 433A.140) **Section 8** of this bill removes this 24-hour period, thereby requiring the immediate release of a person who has been admitted to a mental health facility on a voluntary basis upon his or her request.

Unless a petition is made for the involuntary court-ordered admission of a person previously admitted to a mental health facility or hospital on an emergency basis, existing law prohibits the detention of such a person for longer than: (1) if the person was originally admitted voluntarily, 48 hours after the status was changed to an emergency admission; and (2) in all other cases, 72 hours after certain requirements have been met. (NRS 433A.145, 433A.150) **Sections 9 and 10** of this bill standardize these time periods to prohibit such detention for longer than 72 hours after the change in status or after an application is made for emergency admission, as applicable.

Existing law authorizes an accredited agent of the Department to: (1) make an application for the emergency admission of a person to a mental health facility or hospital; (2) certify that a person who has been admitted to a mental health facility or hospital on an emergency basis is or is not a person with mental illness; or (3) file a petition for the involuntary court-ordered admission of a person to a mental health facility or a program of community-based or outpatient services. (NRS 433A.160, 433A.170, 433A.195, 433A.200) **Sections 11, 13, 15-17 and 20** of this bill remove this authorization, and **section 11** instead authorizes an accredited agent of the Division to transport a person alleged to be a person in a mental health crisis to a mental health facility or hospital after an application is made for the emergency admission of the person.

Existing law requires a person alleged to be a person with mental illness to undergo a medical examination before the person is admitted to a mental health facility. (NRS 433A.165) **Section 12** of this bill requires the Board to adopt regulations prescribing a procedure to ensure that such an examination is performed.

Section 19 of this bill revises the date on which a district judge is required to set a hearing on a petition for the involuntary court-ordered admission of a person to a mental health facility or a program of community-based or outpatient services. **Section 22** of this bill requires the court, upon finding that a person admitted as an emergency admission, other than a criminal defendant, is not a person in a mental health crisis, to order the mental health facility or hospital to which the person has



been admitted to release the person within 24 hours unless the person remains at the facility or hospital voluntarily.

Section 24 of this bill abolishes a prohibition on transporting a person to a mental health facility without at least one attendant of the same sex or a relative in the first degree of consanguinity or affinity being in attendance. **Sections 25 and 28** of this bill authorize the disclosure of certain information concerning persons seeking mental health services to a provider of health care to assist with the treatment of the person.

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

Section 1. NRS 433.324 is hereby amended to read as follows:

433.324 1. The State Board of Health shall adopt regulations:

(a) For the care and treatment of persons with mental illness, persons with substance use disorders or persons with co-occurring disorders by all state agencies and facilities, and their referral to private facilities ~~§~~, *including, without limitation, regulations governing the procedure for the involuntary administration of medication to persons with mental illness;*

(b) To ensure continuity in the care and treatment provided to persons with mental illness, persons with substance use disorders or persons with co-occurring disorders in this State; and

(c) Necessary for the proper and efficient operation of the facilities of the Division.

2. The State Board of Health may adopt regulations to promote programs relating to mental health, substance use disorders and co-occurring disorders.

Sec. 2. NRS 433.5503 is hereby amended to read as follows:

433.5503 1. Chemical restraint may only be used on a person with a disability who is a consumer if:

(a) The consumer has been ~~{diagnosed as mentally ill,}~~ *deemed to be a person in a mental health crisis*, as defined in NRS 433A.115, and is receiving mental health services from a facility;

(b) The chemical restraint is administered to the consumer while he or she is under the care of the facility;

(c) An emergency exists that necessitates the use of chemical restraint;

(d) A medical order authorizing the use of chemical restraint is obtained from the consumer's attending physician, psychiatrist or advanced practice registered nurse;

(e) The physician, psychiatrist or advanced practice registered nurse who signed the order required pursuant to paragraph (d) examines the consumer not later than 1 working day immediately after the administration of the chemical restraint; and



(f) The chemical restraint is administered by a person licensed to administer medication.

2. If chemical restraint is used on a person with a disability who is a consumer, the use of the procedure must be reported as a denial of rights pursuant to NRS 433.534 or 435.610, as applicable, regardless of whether the use of the procedure is authorized by statute. The report must be made not later than 1 working day after the procedure is used.

Sec. 3. Chapter 433A of NRS is hereby amended by adding thereto the provisions set forth as sections 4 and 5 of this act.

Sec. 4. *For the purposes of this chapter, a person shall be deemed to present a substantial likelihood of serious harm to himself or herself or others if, without care or treatment, the person is at serious risk of:*

1. Attempting suicide or homicide;

2. Causing bodily injury to himself or herself or others, including, without limitation, death, unconsciousness, extreme physical pain, protracted and obvious disfigurement or a protracted loss or impairment of a body part, organ or mental functioning;

3. Incurring a serious injury, illness or death resulting from complete neglect of basic needs for food, clothing, shelter or personal safety; or

4. Suffering from or continuing to suffer from severe and abnormal mental, physical or emotional distress associated with significant impairment of judgment, reason or behavior that significantly diminishes the ability of the person to function independently.

Sec. 5. *1. Each public or private mental health facility and hospital in this State shall, in the manner and time prescribed by regulation of the State Board of Health, report to the Division:*

(a) The number of applications for emergency admission received by the mental health facility or hospital pursuant to NRS 433A.160 during the immediately preceding quarter; and

(b) Any other information prescribed by regulation of the State Board of Health.

2. The State Board of Health may adopt regulations that require a public or private mental health facility or hospital to adopt a plan for the discharge of a person admitted to the facility or hospital in accordance with the provisions of this chapter and that prescribe the contents of such a plan.

Sec. 6. NRS 433A.011 is hereby amended to read as follows:

433A.011 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 433A.012 to



433A.019, inclusive, *and NRS 433A.115* have the meanings ascribed to them in those sections.

Sec. 7. NRS 433A.115 is hereby amended to read as follows:

~~433A.115 [1. As used in NRS 433A.115 to 433A.330, inclusive, unless the context otherwise requires, “person with] “Person in a mental [illness”] health crisis” means any person [whose] :~~

1. Who has been diagnosed with mental illness; and

2. Whose capacity to exercise self-control, judgment and discretion in the conduct of the person’s affairs and social relations or to care for his or her personal needs is diminished, as a result of ~~[a] the~~ mental illness, to the extent that the person presents a ~~[clear and present danger]~~ *substantial likelihood* of *serious* harm to himself or herself or others, ~~[but does not include any person in whom that capacity is diminished by epilepsy, intellectual disability, 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 or herself if, within the immediately preceding 30 days, the person 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, the person will be unable to satisfy his or her need for nourishment, personal or medical care, shelter, self protection or safety, and if there exists a reasonable probability that the person’s death, serious bodily injury or physical debilitation will occur within the next following 30 days unless he or she is admitted to a mental health facility or required to participate in a program of community based or outpatient services pursuant to the provisions of NRS 433A.115 to 433A.330, inclusive, and adequate treatment is provided to the person;~~

~~— (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 the person will commit suicide unless he or she is admitted to a mental health facility or required to participate in a program of community based or outpatient services pursuant to the provisions of NRS 433A.115 to 433A.330, inclusive, and adequate treatment is provided to the person; or~~

~~— (c) Mutilated himself or herself, attempted or threatened to mutilate himself or herself or committed acts in furtherance of a threat to mutilate himself or herself, and if there exists a reasonable probability that he or she will mutilate himself or herself unless the person is admitted to a mental health facility or required to~~



1 ~~participate in a program of community based or outpatient services~~
2 ~~pursuant to the provisions of NRS 433A.115 to 433A.330, inclusive,~~
3 ~~and adequate treatment is provided to the person.~~

4 ~~—3. A person presents a clear and present danger of harm to~~
5 ~~others if, within the immediately preceding 30 days, the person has,~~
6 ~~as a result of a mental illness, inflicted or attempted to inflict serious~~
7 ~~bodily harm on any other person, or made threats to inflict harm and~~
8 ~~committed acts in furtherance of those threats, and if there exists a~~
9 ~~reasonable probability that he or she will do so again unless the~~
10 ~~person is admitted to a mental health facility or required to~~
11 ~~participate in a program of community based or outpatient services~~
12 ~~pursuant to the provisions of NRS 433A.115 to 433A.330, inclusive,~~
13 ~~and adequate treatment is provided to him or her.] as determined~~
14 ~~pursuant to section 4 of this act.~~

15 **Sec. 8.** NRS 433A.140 is hereby amended to read as follows:

16 433A.140 1. Any person may apply to:

17 (a) A public or private mental health facility in the State of
18 Nevada for admission to the facility; or

19 (b) A division facility to receive care, treatment or training
20 provided by the Division,

21 ➤ as a voluntary consumer for the purposes of observation,
22 diagnosis, care and treatment. In the case of a person who has not
23 attained the age of majority, application for voluntary admission or
24 care, treatment or training may be made on his or her behalf by the
25 person's spouse, parent or legal guardian.

26 2. If the application is for admission to a division facility, or
27 for care, treatment or training provided by the Division, the
28 applicant must be admitted or provided such services as a voluntary
29 consumer if an examination by personnel of the facility qualified to
30 make such a determination reveals that the person needs and may
31 benefit from services offered by the mental health facility.

32 3. Any person admitted to a public or private mental health
33 facility as a voluntary consumer must be released immediately after
34 the filing of a written request for release with the responsible
35 physician or that physician's designee within the normal working
36 day, unless ~~[, within 24 hours after the request,]~~ the facility changes
37 the status of the person to an emergency admission pursuant to NRS
38 433A.145. When a person is released pursuant to this subsection, the
39 facility and its agents and employees are not liable for any debts or
40 contractual obligations, medical or otherwise, incurred or damages
41 caused by the actions of the person.

42 4. Any person admitted to a public or private mental health
43 facility as a voluntary consumer who has not requested release may
44 nonetheless be released by the medical director of the facility when
45 examining personnel at the facility determine that the consumer has



1 recovered or has improved to such an extent that the consumer is not
2 considered a danger to himself or herself or others and that the
3 services of that facility are no longer beneficial to the consumer or
4 advisable.

5 5. A person who requests care, treatment or training from the
6 Division pursuant to this section must be evaluated by the personnel
7 of the Division to determine whether the person is eligible for the
8 services offered by the Division. The evaluation must be conducted:

9 (a) Within 72 hours if the person has requested inpatient
10 services; or

11 (b) Within 72 regular operating hours, excluding weekends and
12 holidays, if the person has requested community-based or outpatient
13 services.

14 6. This section does not preclude a public facility from making
15 decisions, policies, procedures and practices within the limits of the
16 money made available to the facility.

17 **Sec. 9.** NRS 433A.145 is hereby amended to read as follows:

18 433A.145 1. If a person ~~[with]~~ *in a* mental ~~[illness]~~ *health*
19 *crisis* is admitted to a public or private mental health facility or
20 hospital as a voluntary consumer, the facility or hospital shall not
21 change the status of the person to an emergency admission unless
22 the hospital or facility receives, before the change in status is made,
23 an application for an emergency admission pursuant to NRS
24 433A.160 and the certificate of a psychiatrist, psychologist,
25 physician, physician assistant, clinical social worker ~~[.]~~ *or* advanced
26 practice registered nurse ~~[or accredited agent of the Department]~~
27 pursuant to NRS 433A.170.

28 2. A person whose status is changed pursuant to subsection 1
29 must not be detained in excess of ~~[48]~~ *72* hours after the change in
30 status is made unless, before the close of the business day on which
31 the ~~[48]~~ *72* hours expires, a written petition is filed with the clerk of
32 the district court pursuant to NRS 433A.200.

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

37 **Sec. 10.** NRS 433A.150 is hereby amended to read as follows:

38 433A.150 1. Any person alleged to be a person ~~[with]~~ *in a*
39 mental ~~[illness]~~ *health crisis* may, upon application pursuant to
40 NRS 433A.160 and subject to the provisions of subsection 2, be
41 detained in a public or private mental health facility or hospital
42 under an emergency admission for evaluation, observation and
43 treatment.

44 2. Except as otherwise provided in subsection 3, a person
45 detained pursuant to subsection 1 must be released within 72 hours,



1 including weekends and holidays, after the ~~certificate required~~
2 ~~pursuant to NRS 433A.170 and the examination required by~~
3 ~~paragraph (a) of subsection 1 of NRS 433A.165 have been~~
4 ~~completed, if such an examination is required, or within 72 hours,~~
5 ~~including weekends and holidays, after the person arrives at the~~
6 ~~mental health facility or hospital, if an examination is not required~~
7 ~~by paragraph (a) of subsection 1 of NRS 433A.165.]~~ *application for*
8 *emergency admission is made pursuant to NRS 433A.160* unless,
9 before the close of the business day on which the 72 hours expires, a
10 written petition for an involuntary court-ordered admission to a
11 mental health facility is filed with the clerk of the district court
12 pursuant to NRS 433A.200, including, without limitation, the
13 documents required pursuant to NRS 433A.210, or the status of the
14 person is changed to a voluntary admission.

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

19 **Sec. 11.** NRS 433A.160 is hereby amended to read as follows:

20 433A.160 1. Except as otherwise provided in subsection 2,
21 an application for the emergency admission of a person alleged to be
22 a person ~~[with]~~ *in a* mental ~~[illness]~~ *health crisis* for evaluation,
23 observation and treatment may only be made by ~~[an accredited~~
24 ~~agent of the Department,]~~ an officer authorized to make arrests in
25 the State of Nevada or a physician, physician assistant, psychologist,
26 marriage and family therapist, clinical professional counselor, social
27 worker or registered nurse. The ~~[agent,]~~ officer, physician, physician
28 assistant, psychologist, marriage and family therapist, clinical
29 professional counselor, social worker or registered nurse may:

30 (a) Without a warrant:

31 (1) Take a person alleged to be a person ~~[with]~~ *in a* mental
32 ~~[illness]~~ *health crisis* into custody to apply for the emergency
33 admission of the person for evaluation, observation and treatment;
34 and

35 (2) Transport the person alleged to be a person ~~[with]~~ *in a*
36 mental ~~[illness]~~ *health crisis* to a public or private mental health
37 facility or hospital for that purpose, or arrange for the person to be
38 transported by:

39 (I) A local law enforcement agency;

40 (II) A system for the nonemergency medical
41 transportation of persons whose operation is authorized by the
42 Nevada Transportation Authority;

43 (III) An entity that is exempt pursuant to NRS 706.745
44 from the provisions of NRS 706.386 or 706.421; ~~[or]~~

45 (IV) *An accredited agent of the Division; or*



(V) If medically necessary, an ambulance service that holds a permit issued pursuant to the provisions of chapter 450B of NRS,

only if the ~~agent,~~ officer, physician, physician assistant, psychologist, marriage and family therapist, clinical professional counselor, social worker or registered nurse, ~~has,~~ based upon his or her personal observation of the person ~~alleged to be a person with mental illness,~~, ~~has~~ probable cause to believe that the person ~~has a mental illness and, because of that illness, is likely to harm himself or herself or others if allowed his or her liberty.~~ *is a person in a mental health crisis.*

(b) Apply to a district court for an order requiring:

(1) Any peace officer to take a person alleged to be a person ~~with~~ *in a* mental ~~illness~~ *health crisis* into custody to allow the applicant for the order to apply for the emergency admission of the person for evaluation, observation and treatment; and

(2) Any agency, system, *agent* or service described in subparagraph (2) of paragraph (a) to transport the person alleged to be a person ~~with~~ *in a* mental ~~illness~~ *health crisis* to a public or private mental health facility or hospital for that purpose.

The district court may issue such an order only if it is satisfied that there is probable cause to believe that the person ~~has a mental illness and, because of that illness, is likely to harm himself or herself or others if allowed his or her liberty.~~ *is a person in a mental health crisis.*

2. An application for the emergency admission of a person alleged to be a person ~~with~~ *in a* mental ~~illness~~ *health crisis* for evaluation, observation and treatment may be made by a spouse, parent, adult child or legal guardian of the person. The spouse, parent, adult child or legal guardian and any other person who has a legitimate interest in the person alleged to be a person ~~with~~ *in a* mental ~~illness~~ *health crisis* may apply to a district court for an order described in paragraph (b) of subsection 1.

3. The application for the emergency admission of a person alleged to be a person ~~with~~ *in a* mental ~~illness~~ *health crisis* for evaluation, observation and treatment must reveal the circumstances under which the person was taken into custody and the reasons therefor.

4. Except as otherwise provided in this subsection, each person admitted to a public or private mental health facility or hospital under an emergency admission must be evaluated at the time of admission by a psychiatrist or a psychologist. If a psychiatrist or a psychologist is not available to conduct an evaluation at the time of admission, a physician or an advanced practice registered nurse who has the training and experience prescribed by the State Board of



Nursing pursuant to NRS 632.120 may conduct the evaluation. Each such emergency admission must be approved by a psychiatrist.

5. *The State Board of Health shall adopt regulations governing the manner in which:*

(a) *A person may apply to become an accredited agent of the Division; and*

(b) *Accredited agents of the Division will be monitored and disciplined for professional misconduct.*

6. As used in this section, "an accredited agent of the ~~{Department}~~ *Division*" means any person ~~{appointed or designated}~~ *authorized* by the ~~{Director of the Department}~~ *Division* to ~~{take into custody and}~~ transport to a mental health facility pursuant to ~~{subsections}~~ *subparagraph 2 of paragraph (a) of subsection 1* ~~{and 2}~~ those persons in need of emergency admission.

Sec. 12. NRS 433A.165 is hereby amended to read as follows:

433A.165 1. Before a person alleged to be a person ~~{with}~~ *in* a mental ~~{illness}~~ *health crisis* may be 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 practice registered nurse licensed pursuant to NRS 632.237 at any location where such a physician, physician assistant or advanced practice registered nurse is authorized to conduct such an examination to determine whether the person has a medical ~~{problem,}~~ *condition*, other than a psychiatric ~~{problem,}~~ *condition*, 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}~~ *in* a mental ~~{illness}~~ *health crisis* has a medical ~~{problem}~~ *condition* in addition to a psychiatric ~~{problem}~~ *condition* which requires medical treatment that requires more than 72 hours to complete, the licensed physician, physician assistant or advanced practice registered nurse 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 mental health facility pursuant to NRS 433A.160 after the medical treatment has been completed. The petition must:



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

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

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

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

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

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

4. The cost of the examination must be paid by the county in which the person alleged to be a person ~~{with}~~ *in a* mental ~~{illness}~~ *health crisis* resides if services are provided at a county hospital located in that county or a hospital or other medical facility designated by that county, unless the cost is voluntarily paid by the person alleged to be a person ~~{with}~~ *in a* mental ~~{illness}~~ *health crisis* or, on the person's behalf, by his or her insurer or by a state or federal program of medical assistance.

5. The county may recover all or any part of the expenses paid by it, in a civil action against:

(a) The person whose expenses were paid;

(b) The estate of that person; or

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

6. The cost of treatment, including hospitalization, for a person who is indigent must be paid pursuant to NRS 428.010 by the county in which the person alleged to be a person ~~{with}~~ *in a* mental ~~{illness}~~ *health crisis* resides.

7. The provisions of this section do not require the Division to provide examinations required pursuant to subsection 1 at a division facility if the Division does not have the:

(a) Appropriate staffing levels of physicians, physician assistants, advanced practice registered nurses or other appropriate staff available at the facility as the Division determines is necessary to provide such examinations; or

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



8. The ~~[Division]~~ *State Board of Health* 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 a procedure to ensure that an examination is performed pursuant to paragraph (a) of subsection 1; and*

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

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

Sec. 13. NRS 433A.170 is hereby amended to read as follows:

433A.170 Except as otherwise provided in this section, the administrative officer of a facility operated by the Division or of any other public or private mental health facility or hospital shall not accept an application for an emergency admission under NRS 433A.160 unless that application is accompanied by a certificate of a licensed psychologist, a physician, a physician assistant under the supervision of a psychiatrist, a clinical social worker who has the psychiatric training and experience prescribed by the Board of Examiners for Social Workers pursuant to NRS 641B.160 ~~[]~~ *or* an advanced practice registered nurse who has the psychiatric training and experience prescribed by the State Board of Nursing pursuant to NRS 632.120 ~~[for an accredited agent of the Department]~~ stating that he or she has examined the person alleged to be a person ~~[with]~~ *in a* mental ~~[illness]~~ *health crisis* and that he or she has concluded that the person ~~[has]~~ *is a person in* a mental ~~[illness and, because of that illness, is likely to harm himself or herself or others if allowed his or her liberty.]~~ *health crisis*. The certificate required by this section may be obtained from a licensed psychologist, physician, physician assistant, clinical social worker ~~[]~~ *or* advanced practice registered nurse ~~[for accredited agent of the Department]~~ who is employed by the public or private mental health facility or hospital to which the application is made.

Sec. 14. NRS 433A.190 is hereby amended to read as follows:

433A.190 Within 24 hours of ~~[a person's admission under]~~ *the* emergency admission ~~[]~~ *of a person alleged to be a person in a mental health crisis pursuant to NRS 433A.150*, the administrative officer of a public or private mental health facility shall give notice of such admission in person, by telephone or facsimile and by certified mail to the spouse or legal guardian of that person.

Sec. 15. NRS 433A.195 is hereby amended to read as follows:

433A.195 A licensed physician on the medical staff of a facility operated by the Division or of any other public or private



1 mental health facility or hospital may release a person admitted
2 pursuant to NRS 433A.160 upon completion of a certificate which
3 meets the requirements of NRS 433A.197 signed by a licensed
4 physician on the medical staff of the facility or hospital, a physician
5 assistant under the supervision of a psychiatrist, psychologist, a
6 clinical social worker who has the psychiatric training and
7 experience prescribed by the Board of Examiners for Social
8 Workers pursuant to NRS 641B.160 ~~{}~~ *or* an advanced practice
9 registered nurse who has the psychiatric training and experience
10 prescribed by the State Board of Nursing pursuant to NRS 632.120
11 ~~{for an accredited agent of the Department}~~ stating that he or she has
12 personally observed and examined the person and that he or she has
13 concluded that the person is not a person ~~{with}~~ *in* a mental ~~{illness.}~~
14 *health crisis*.

15 **Sec. 16.** NRS 433A.197 is hereby amended to read as follows:

16 433A.197 1. An application or certificate authorized under
17 subsection 1 of NRS 433A.160 or NRS 433A.170 or 433A.195 must
18 not be considered if made by a psychologist, physician, physician
19 assistant, clinical social worker ~~{}~~ *or* advanced practice registered
20 nurse ~~{for an accredited agent of the Department}~~ who is related by
21 blood or marriage within the second degree of consanguinity or
22 affinity to the person alleged to be a person ~~{with}~~ *in a* mental
23 ~~{illness.}~~ *health crisis*, or who is financially interested in the facility
24 in which the person alleged to be a person ~~{with}~~ *in a* mental
25 ~~{illness.}~~ *health crisis* is to be detained.

26 2. An application or certificate of any examining person
27 authorized under NRS 433A.170 must not be considered unless it is
28 based on personal observation and examination of the person
29 alleged to be a person ~~{with}~~ *in a* mental ~~{illness.}~~ *health crisis* made
30 by such examining person not more than 72 hours prior to the
31 making of the application or certificate. The certificate required
32 pursuant to NRS 433A.170 must set forth in detail the facts and
33 reasons on which the examining person based his or her opinions
34 and conclusions.

35 3. A certificate authorized pursuant to NRS 433A.195 must not
36 be considered unless it is based on personal observation and
37 examination of the person alleged to be a person ~~{with}~~ *in a* mental
38 ~~{illness.}~~ *health crisis* made by the examining physician, physician
39 assistant, psychologist, clinical social worker ~~{}~~ *or* advanced
40 practice registered nurse . ~~{for an accredited agent of the Department.}~~
41 The certificate authorized pursuant to NRS 433A.195 must describe
42 in detail the facts and reasons on which the examining physician,
43 physician assistant, psychologist, clinical social worker ~~{}~~ *or*
44 advanced practice registered nurse ~~{for an accredited agent of the~~
45 ~~Department}~~ based his or her opinions and conclusions.



Sec. 17. NRS 433A.200 is hereby amended to read as follows:
433A.200 1. Except as otherwise provided in subsection 3 and NRS 432B.6075, a proceeding for an involuntary court-ordered admission of any person in the State of Nevada may be commenced by the filing of a petition for the involuntary admission to a mental health facility or to a program of community-based or outpatient services with the clerk of the district court of the county where the person who is to be treated resides. The petition may be filed by the spouse, parent, adult children or legal guardian of the person to be treated or by any physician, physician assistant, psychologist, social worker or registered nurse ~~[, by an accredited agent of the Department]~~ or by any officer authorized to make arrests in the State of Nevada. The petition must be accompanied:

(a) By a certificate of a physician, a licensed psychologist, a physician assistant under the supervision of a psychiatrist, a clinical social worker who has the psychiatric training and experience prescribed by the Board of Examiners for Social Workers pursuant to NRS 641B.160 ~~[, or an advanced practice registered nurse who has the psychiatric training and experience prescribed by the State Board of Nursing pursuant to NRS 632.120~~ ~~[for an accredited agent of the Department]~~ stating that he or she has examined the person alleged to be a person ~~[with]~~ *in a mental illness health crisis* and has concluded that the person ~~[has]~~ *is a person in a mental illness and, because of that illness, is likely to harm himself or herself or others if allowed his or her liberty or if not required to participate in a program of community-based or outpatient services;]* *health crisis;* or

(b) By a sworn written statement by the petitioner that:

(1) The petitioner has, based upon the petitioner's personal observation of the person alleged to be a person ~~[with]~~ *in a mental illness,]* *health crisis*, probable cause to believe that the person ~~[has]~~ *is a person in a mental illness and, because of that illness, is likely to harm himself or herself or others if allowed his or her liberty or if not required to participate in a program of community-based or outpatient services;]* *health crisis;* and

(2) The person alleged to be a person ~~[with]~~ *in a mental illness]* *health crisis* has refused to submit to examination or treatment by a physician, psychiatrist, licensed psychologist or advanced practice registered nurse who has the psychiatric training and experience prescribed by the State Board of Nursing pursuant to NRS 632.120.

2. Except as otherwise provided in NRS 432B.6075, if the person to be treated is a minor and the petitioner is a person other than a parent or guardian of the minor, a petition submitted pursuant to subsection 1 must, in addition to the certificate or statement



required by that subsection, include a statement signed by a parent or guardian of the minor that the parent or guardian does not object to the filing of the petition.

3. A proceeding for the involuntary court-ordered admission of a person who is the defendant in a criminal proceeding in the district court to a program of community-based or outpatient services may be commenced by the district court, on its own motion, or by motion of the defendant or the district attorney if:

(a) The defendant has been examined in accordance with NRS 178.415;

(b) The defendant is not eligible for commitment to the custody of the Administrator pursuant to NRS 178.461; and

(c) The Division makes a clinical determination that placement in a program of community-based or outpatient services is appropriate.

Sec. 18. NRS 433A.210 is hereby amended to read as follows:
433A.210 In addition to the requirements of NRS 433A.200, a petition filed pursuant to that section with the clerk of the district court to commence proceedings for involuntary court-ordered admission of a person pursuant to NRS 433A.145 or 433A.150 must include a certified copy of:

1. The application for the emergency admission of the person made pursuant to NRS 433A.160; and

2. A petition executed by a psychiatrist, licensed psychologist, physician or advanced practice registered nurse who has the psychiatric training and experience prescribed by the State Board of Nursing pursuant to NRS 632.120, including, without limitation, a sworn statement that:

(a) He or she has examined the person alleged to be a person ~~[with]~~ in a mental ~~[illness;]~~ *health crisis*;

(b) In his or her opinion, there is a reasonable degree of certainty that the person alleged to be a person ~~[with]~~ in a mental ~~[illness]~~ *health crisis* suffers from a mental illness;

(c) Based on his or her personal observation of the person alleged to be a person ~~[with]~~ in a mental ~~[illness]~~ *health crisis* and other facts set forth in the petition, the person ~~[poses]~~ *presents* a *substantial* risk of ~~[imminent]~~ *serious* harm to himself or herself or others ~~[;]~~, *as determined pursuant to section 4 of this act*; and

(d) In his or her opinion, involuntary admission of the person alleged to be a person ~~[with]~~ in a mental ~~[illness]~~ *health crisis* to a mental health facility or hospital is medically necessary to prevent the person from harming himself or herself or others.

Sec. 19. NRS 433A.220 is hereby amended to read as follows:
433A.220 1. Immediately after the clerk of the district court receives any petition filed pursuant to NRS 433A.200 or 433A.210,



1 the clerk shall transmit the petition to the appropriate district judge,
2 who shall set a time, date and place for its hearing. Immediately
3 after a motion is made pursuant to subsection 3 of NRS 433A.200,
4 the district judge shall set a time, date and place for its hearing. The
5 date must be within ~~5~~ 6 judicial days after the date on which the
6 petition is received by the clerk or the motion is made, as applicable
7 ~~5~~, unless otherwise stipulated by an attorney representing the
8 person alleged to be a person in a mental health crisis and the
9 district attorney. If the Chief Judge, if any, of the district court has
10 assigned a district court judge or hearing master to preside over such
11 hearings, that judge or hearing master must preside over the hearing.

12 2. The court shall give notice of the petition or motion and of
13 the time, date and place of any proceedings thereon to the subject of
14 the petition or motion, his or her attorney, if known, the person's
15 legal guardian, the petitioner, if applicable, the district attorney of
16 the county in which the court has its principal office, the local office
17 of an agency or organization that receives money from the Federal
18 Government pursuant to 42 U.S.C. §§ 10801 et seq., to protect and
19 advocate the rights of persons ~~{with mental illness}~~ in a mental
20 health crisis and the administrative office of any public or private
21 mental health facility in which the subject of the petition or motion
22 is detained.

23 3. The provisions of this section do not preclude a facility from
24 discharging a person before the time set pursuant to this section for
25 the hearing concerning the person, if appropriate. If the person has a
26 legal guardian, the facility shall notify the guardian prior to
27 discharging the person from the facility. The legal guardian has
28 discretion to determine where the person will be released, taking
29 into consideration any discharge plan proposed by the facility
30 assessment team. If the legal guardian does not inform the facility as
31 to where the person will be released within 3 days after the date of
32 notification, the facility shall discharge the person according to its
33 proposed discharge plan.

34 **Sec. 20.** NRS 433A.230 is hereby amended to read as follows:

35 433A.230 The court in its discretion may require any petitioner
36 under NRS 433A.200, except ~~{any duly accredited agent of the~~
37 ~~Department or}~~ any officer authorized to make arrests in the State of
38 Nevada, to file an undertaking with surety to be approved by the
39 court in the amount the court deems proper, conditioned to save
40 harmless the person alleged to be ~~{mentally ill}~~ a person in a mental
41 health crisis by reason of costs incurred, including attorney fees, if
42 any, and damages suffered by the person as a result of such action.

43 **Sec. 21.** NRS 433A.280 is hereby amended to read as follows:

44 433A.280 In proceedings for involuntary court-ordered
45 admission, the court shall hear and consider all relevant testimony,



including, but not limited to, the testimony of examining personnel who participated in the evaluation of the person alleged to be a person ~~[with]~~ *in a* mental ~~[illness]~~ *health crisis* and the certificates of physicians, certified psychologists or advanced practice registered nurses accompanying the petition, if applicable. The court may consider testimony relating to any past actions of the person alleged to be a person ~~[with]~~ *in a* mental ~~[illness]~~ *health crisis* if such testimony is probative of the question of whether the person is presently ~~[mentally ill and presents a clear and present danger of harm to himself or herself or others.]~~ *a person in a mental health crisis.*

Sec. 22. NRS 433A.310 is hereby amended to read as follows:

433A.310 1. Except as otherwise provided in subsection 2 and NRS 432B.6076 and 432B.6077, if the district court finds, after proceedings for the involuntary court-ordered admission of a person:

(a) That there is not clear and convincing evidence that the person with respect to whom the hearing was held ~~[has a mental illness or exhibits observable behavior such that the person is likely to harm himself or herself or others if allowed his or her liberty or if not required to participate in a program of community-based or outpatient services.]~~ *is a person in a mental health crisis*, the court shall enter its finding to that effect and the person must not be involuntarily admitted to a public or private mental health facility or to a program of community-based or outpatient services. *If the person has been admitted to a public or private mental health facility or hospital pursuant to NRS 433A.160, the court must issue a written order requiring the facility or hospital to release the person not later than 24 hours after the court issues the order, unless the person applies for admission as a voluntary consumer pursuant to NRS 433A.140.*

(b) That there is clear and convincing evidence that the person with respect to whom the hearing was held ~~[has a mental illness and, because of that illness, is likely to harm himself or herself or others if allowed his or her liberty or if not required to participate in a program of community-based or outpatient services.]~~ *is a person in a mental health crisis*, the court may order the involuntary admission of the person for the most appropriate course of treatment, including, without limitation, admission to a public or private mental health facility or participation in a program of community-based or outpatient services. The order of the court must be interlocutory and must not become final if, within 30 days after the involuntary admission, the person is unconditionally released pursuant to NRS 433A.390.



2. If the district court finds, after proceedings for the involuntary court-ordered admission of a defendant in a criminal proceeding pursuant to subsection 3 of NRS 433A.200:

(a) That there is not clear and convincing evidence that the defendant with respect to whom the hearing was held ~~has a mental illness or exhibits observable behavior such that the defendant is likely to harm himself or herself or others if allowed his or her liberty or if not required to participate in a program of community-based or outpatient services,~~ *is a person in a mental health crisis,* the court shall enter its finding to that effect and the person must not be involuntarily admitted to a program of community-based or outpatient services.

(b) That there is clear and convincing evidence that the defendant with respect to whom the hearing was held ~~has a mental illness and, because of that illness, is likely to harm himself or herself or others if allowed his or her liberty or if not required to participate in a program of community-based or outpatient services,~~ *is a person in a mental health crisis,* except as otherwise provided in this paragraph, the court shall order the involuntary admission of the defendant for participation in a program of community-based or outpatient services and suspend further proceedings in the criminal proceeding against the defendant until the defendant completes or is removed from the program. If the offense allegedly committed by the defendant is a category A or B felony or involved the use or threatened use of force or violence, the court may not order the involuntary admission of the defendant for participation in a program pursuant to this paragraph unless the prosecuting attorney stipulates to the assignment. The order of the court must be interlocutory and must not become final if, within 30 days after the involuntary admission, the person is unconditionally released pursuant to NRS 433A.390. If the defendant successfully completes a program of community-based or outpatient services to the satisfaction of the court, the court shall dismiss the criminal charges against the defendant with prejudice.

3. If, pursuant to NRS 176A.400, the district court issues an order granting probation to a defendant in a criminal proceeding with a condition that the defendant submit to mental health treatment and comply with instructions, admission to a program of community-based or outpatient services may be used to satisfy such a condition if the Division makes a clinical determination that placement in a program of community-based or outpatient services is appropriate.

4. A court shall not admit a person to a program of community-based or outpatient services unless:



(a) A program of community-based or outpatient services is available in the community in which the person resides or is otherwise made available to the person;

(b) The person is 18 years of age or older;

(c) The person has a history of noncompliance with treatment for mental illness;

(d) The person is capable of surviving safely in the community in which he or she resides with available supervision;

(e) The court determines that, based on the person's history of treatment for mental illness, the person needs to be admitted to a program of community-based or outpatient services to prevent further disability or deterioration of the person which ~~is likely to result in~~ *presents a substantial likelihood of serious* harm to himself or herself or others ~~is~~, *as determined pursuant to section 4 of this act;*

(f) The current mental status of the person or the nature of the person's illness limits or negates his or her ability to make an informed decision to seek treatment for mental illness voluntarily or to comply with recommended treatment for mental illness;

(g) The program of community-based or outpatient services is the least restrictive treatment which is in the best interest of the person; and

(h) The court has approved a plan of treatment developed for the person pursuant to NRS 433A.315.

5. Except as otherwise provided in NRS 432B.608, an involuntary admission pursuant to paragraph (b) of subsection 1 or paragraph (b) of subsection 2 automatically expires at the end of 6 months if not terminated previously by the medical director of the public or private mental health facility as provided for in subsection 2 of NRS 433A.390 or by the professional responsible for providing or coordinating the program of community-based or outpatient services as provided for in subsection 3 of NRS 433A.390. Except as otherwise provided in NRS 432B.608, at the end of the court-ordered period of treatment, the Division, any mental health facility that is not operated by the Division or a program of community-based or outpatient services may petition to renew the involuntary admission of the person for additional periods not to exceed 6 months each. For each renewal, the petition must include evidence which meets the same standard set forth in subsection 1 or 2 that was required for the initial period of admission of the person to a public or private mental health facility or to a program of community-based or outpatient services.

6. Before issuing an order for involuntary admission or a renewal thereof, the court shall explore other alternative courses of treatment within the least restrictive appropriate environment,



1 including involuntary admission to a program of community-based
2 or outpatient services, as suggested by the evaluation team who
3 evaluated the person, or other persons professionally qualified in the
4 field of psychiatric mental health, which the court believes may be
5 in the best interests of the person.

6 7. If the court issues an order involuntarily admitting a person
7 to a public or private mental health facility or to a program of
8 community-based or outpatient services pursuant to this section, the
9 court shall, notwithstanding the provisions of NRS 433A.715, cause,
10 within 5 business days after the order becomes final pursuant to this
11 section, on a form prescribed by the Department of Public Safety, a
12 record of the order to be transmitted to:

13 (a) The Central Repository for Nevada Records of Criminal
14 History, along with a statement indicating that the record is being
15 transmitted for inclusion in each appropriate database of the
16 National Instant Criminal Background Check System; and

17 (b) Each law enforcement agency of this State with which the
18 court has entered into an agreement for such transmission, along
19 with a statement indicating that the record is being transmitted for
20 inclusion in each of this State's appropriate databases of information
21 relating to crimes.

22 8. As used in this section, "National Instant Criminal
23 Background Check System" has the meaning ascribed to it in
24 NRS 179A.062.

25 **Sec. 23.** NRS 433A.327 is hereby amended to read as follows:

26 433A.327 1. Except as otherwise provided in subsection 3,
27 any person involuntarily admitted to a program of community-based
28 or outpatient services may be conditionally released from the
29 program when, in the judgment of the professional responsible for
30 providing or coordinating the program of community-based or
31 outpatient services, the person does not present a ~~danger~~
32 *substantial likelihood* of *serious* harm to himself or herself or
33 others. The professional responsible for providing or coordinating
34 the program of community-based or outpatient services shall
35 prescribe the period for which the conditional release is effective.
36 The period must not extend beyond the last day of the court-ordered
37 period of admission to a program of community-based or outpatient
38 services pursuant to NRS 433A.310.

39 2. When a person is conditionally released pursuant to
40 subsection 1, the State of Nevada, the agents and employees of the
41 State or a mental health facility, the professionals responsible for
42 providing or coordinating programs of community-based or
43 outpatient services and any other professionals providing mental
44 health services are not liable for any debts or contractual obligations



1 incurred, medical or otherwise, or damages caused by the actions of
2 the person who is released.

3 3. A person who is involuntarily admitted to a program of
4 community-based or outpatient services may be conditionally
5 released only if, at the time of the release, written notice is given to
6 the court which ordered the person to participate in the program, to
7 the attorney of the person and to the district attorney of the county in
8 which the proceedings for admission were held.

9 4. Except as otherwise provided in subsection 6, the
10 professional responsible for providing or coordinating the program
11 of community-based or outpatient services shall order a person who
12 is conditionally released pursuant to subsection 1 to resume
13 participation in the program if the professional determines that the
14 conditional release is no longer appropriate because that person
15 presents a ~~{clear and present danger}~~ *substantial likelihood* of
16 *serious* harm to himself or herself or others ~~{-}~~, *as determined*
17 *pursuant to section 4 of this act.* Except as otherwise provided in
18 this subsection, the professional responsible for providing or
19 coordinating the program of community-based or outpatient services
20 shall, at least 3 days before the issuance of the order to resume
21 participation, give written notice of the order to the court that
22 admitted the person to the program. If an emergency exists in which
23 the person presents ~~{an imminent threat of danger}~~ *a substantial*
24 *likelihood* of *serious* harm to himself or herself or others, the order
25 must be submitted to the court not later than 1 business day after the
26 order is issued.

27 5. The court shall review an order submitted pursuant to
28 subsection 4 and the current condition of the person who was
29 ordered to resume participation in a program of community-based or
30 outpatient services at the next regularly scheduled hearing for the
31 review of petitions for involuntary admissions, but in no event later
32 than 5 judicial days after participation in the program is resumed.
33 The court shall serve notice on the person who was ordered to
34 resume participation in the program and to his or her attorney of the
35 time, date and place of the hearing and of the facts necessitating that
36 the person resume participation in the program.

37 6. The provisions of subsection 4 do not apply if the period of
38 conditional release has expired.

39 **Sec. 24.** NRS 433A.330 is hereby amended to read as follows:

40 433A.330 ~~{-}~~ When an involuntary court admission to a
41 mental health facility is ordered under the provisions of this chapter,
42 the involuntarily admitted person, together with the court orders and
43 certificates of the physicians, certified psychologists, advanced
44 practice registered nurses or evaluation team and a full and complete
45 transcript of the notes of the official reporter made at the



examination of such person before the court, must be delivered to the sheriff of the county who shall:

~~[(a)]~~ 1. Transport the person; or

~~[(b)]~~ 2. Arrange for the person to be transported by:

~~[(1)]~~ (a) A system for the nonemergency medical transportation of persons whose operation is authorized by the Nevada Transportation Authority; or

~~[(2)]~~ (b) If medically necessary, an ambulance service that holds a permit issued pursuant to the provisions of chapter 450B of NRS,

➔ to the appropriate public or private mental health facility.

~~[(2.—No person with mental illness may be transported to the mental health facility without at least one attendant of the same sex or a relative in the first degree of consanguinity or affinity being in attendance.)]~~

Sec. 25. NRS 433A.360 is hereby amended to read as follows:

433A.360 1. A clinical record for each consumer must be diligently maintained by any division facility, private institution, facility offering mental health services or program of community-based or outpatient services. The record must include information pertaining to the consumer's admission, legal status, treatment and individualized plan for habilitation. The clinical record is not a public record and no part of it may be released, except ~~[(1)]~~ *as otherwise provided in subsection 2 or except:*

(a) If the release is authorized or required pursuant to NRS 439.538.

(b) The record must be released to physicians, advanced practice registered nurses, attorneys and social agencies as specifically authorized in writing by the consumer, the consumer's parent, guardian or attorney.

(c) The record must be released to persons authorized by the order of a court of competent jurisdiction.

(d) The record or any part thereof may be disclosed to a qualified member of the staff of a division facility, an employee of the Division or a member of the staff of an agency in Nevada which has been established pursuant to the Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. §§ 15001 et seq., or the Protection and Advocacy for Mentally Ill Individuals Act of 1986, 42 U.S.C. §§ 10801 et seq., when the Administrator deems it necessary for the proper care of the consumer.

(e) Information from the clinical records may be used for statistical and evaluative purposes if the information is abstracted in such a way as to protect the identity of individual consumers.

(f) To the extent necessary for a consumer to make a claim, or for a claim to be made on behalf of a consumer for aid, insurance or



1 medical assistance to which the consumer may be entitled,
2 information from the records may be released with the written
3 authorization of the consumer or the consumer's guardian.

4 (g) The record must be released without charge to any member
5 of the staff of an agency in Nevada which has been established
6 pursuant to 42 U.S.C. §§ 15001 et seq. or 42 U.S.C. §§ 10801 et
7 seq. if:

8 (1) The consumer is a consumer of that office and the
9 consumer or the consumer's legal representative or guardian
10 authorizes the release of the record; or

11 (2) A complaint regarding a consumer was received by the
12 office or there is probable cause to believe that the consumer has
13 been abused or neglected and the consumer:

14 (I) Is unable to authorize the release of the record because
15 of the consumer's mental or physical condition; and

16 (II) Does not have a guardian or other legal representative
17 or is a ward of the State.

18 (h) The record must be released as provided in NRS 433.332 or
19 433B.200 and in chapter 629 of NRS.

20 2. *A division facility, private institution, facility offering*
21 *mental health services or program of community-based or*
22 *outpatient services and any other person or entity having*
23 *information concerning a consumer, including, without limitation,*
24 *a clinical record, any part thereof or any information contained*
25 *therein, may disclose such information to a provider of health care*
26 *to assist with treatment provided to the consumer.*

27 3. As used in this section ~~["consumer"]~~:

28 (a) *"Consumer"* includes any person who seeks, on the person's
29 own or others' initiative, and can benefit from, care, treatment and
30 training in a private institution or facility offering mental health
31 services, from treatment to competency in a private institution or
32 facility offering mental health services, or from a program of
33 community-based or outpatient services.

34 (b) *"Provider of health care" has the meaning ascribed to it in*
35 *NRS 629.031.*

36 **Sec. 26.** NRS 433A.380 is hereby amended to read as follows:
37 433A.380 1. Except as otherwise provided in subsection 4,
38 any person involuntarily admitted by a court may be conditionally
39 released from a public or private mental health facility when, in the
40 judgment of the medical director of the facility, the conditional
41 release is in the best interest of the person and will not be
42 detrimental to the public welfare. The medical director of the facility
43 or the medical director's designee shall prescribe the period for
44 which the conditional release is effective. The period must not
45 extend beyond the last day of the court-ordered period of treatment



1 pursuant to NRS 433A.310. If the person has a legal guardian, the
2 facility shall notify the guardian before discharging the person from
3 the facility. The legal guardian has discretion to determine where the
4 person will be released, taking into consideration any discharge plan
5 proposed by the facility assessment team. If the legal guardian does
6 not inform the facility as to where the person will be released within
7 3 days after the date of notification, the facility shall discharge the
8 person according to its proposed discharge plan.

9 2. When a person is conditionally released pursuant to
10 subsection 1, the State or any of its agents or employees are not
11 liable for any debts or contractual obligations, medical or otherwise,
12 incurred or damages caused by the actions of the person.

13 3. When a person who has been adjudicated by a court to be
14 incapacitated is conditionally released from a mental health facility,
15 the administrative officer of the mental health facility shall petition
16 the court for restoration of full civil and legal rights as deemed
17 necessary to facilitate the incapacitated person's rehabilitation. If the
18 person has a legal guardian, the petition must be filed with the court
19 having jurisdiction over the guardianship.

20 4. A person who was involuntarily admitted by a court because
21 he or she was likely to *present a substantial likelihood of serious*
22 *harm to himself or herself or others* ~~[if allowed to remain at liberty]~~
23 *, as determined pursuant to section 4 of this act,* may be
24 conditionally released only if, at the time of the release, written
25 notice is given to the court which admitted him or her, to the
26 person's legal guardian and to the district attorney of the county in
27 which the proceedings for admission were held.

28 5. Except as otherwise provided in subsection 7, the
29 administrative officer of a public or private mental health facility or
30 the administrative officer's designee shall order a person who is
31 conditionally released from that facility pursuant to this section to
32 return to the facility if a psychiatrist and a member of that person's
33 treatment team who is professionally qualified in the field of
34 psychiatric mental health determine ~~[, pursuant to NRS 433A.115,]~~
35 that the conditional release is no longer appropriate because that
36 person presents a ~~[clear and present danger]~~ *substantial likelihood*
37 *of serious harm to himself or herself or others* ~~[,]~~ *, as determined*
38 *pursuant to section 4 of this act.* Except as otherwise provided in
39 this subsection, the administrative officer or the designee shall, at
40 least 3 days before the issuance of the order to return, give written
41 notice of the order to the court that admitted the person to the
42 facility and to the person's legal guardian. If an emergency exists in
43 which the person presents ~~[an imminent threat of danger]~~ *a*
44 *substantial likelihood* of harm to himself or herself or others, *as*
45 *determined pursuant to section 4 of this act,* the order must be



submitted to the court and the legal guardian not later than 1 business day after the order is issued.

6. The court shall review an order submitted pursuant to subsection 5 and the current condition of the person who was ordered to return to the facility at its next regularly scheduled hearing for the review of petitions for involuntary court-ordered admissions, but in no event later than 5 judicial days after the person is returned to the facility. The administrative officer or the administrative officer's designee shall give written notice to the person who was ordered to return to the facility, to the person's legal guardian and to the person's attorney, if known, of the time, date and place of the hearing and of the facts necessitating that person's return to the facility.

7. The provisions of subsection 5 do not apply if the period of conditional release has expired.

Sec. 27. NRS 433A.390 is hereby amended to read as follows:
433A.390 1. When a consumer, involuntarily admitted to a mental health facility or to a program of community-based or outpatient services by court order, is released at the end of the period specified pursuant to NRS 433A.310, written notice must be given to the admitting court and to the consumer's legal guardian at least 10 days before the release of the consumer. The consumer may then be released without requiring further orders of the court. If the consumer has a legal guardian, the facility or the professional responsible for providing or coordinating the program of community-based or outpatient services shall notify the guardian before discharging the consumer from the facility or program. The legal guardian has discretion to determine where the consumer will be released, taking into consideration any discharge plan proposed by the facility assessment team or the professional responsible for providing or coordinating the program of community-based or outpatient services. If the legal guardian does not inform the facility or professional as to where the consumer will be released within 3 days after the date of notification, the facility or professional shall discharge the consumer according to its proposed discharge plan.

2. A consumer who is involuntarily admitted to a mental health facility may be unconditionally released before the period specified in NRS 433A.310 when:

(a) An evaluation team established under NRS 433A.250 or two persons professionally qualified in the field of psychiatric mental health, at least one of them being a physician, determines that the consumer ~~[has recovered from his or her mental illness or has improved to such an extent that the consumer is no longer considered to present a clear and present danger of harm to himself~~



~~or herself or others;}~~ *is no longer a person in a mental health crisis;* and

(b) Under advisement from the evaluation team or two persons professionally qualified in the field of psychiatric mental health, at least one of them being a physician, the medical director of the mental health facility authorizes the release and gives written notice to the admitting court and to the consumer's legal guardian at least 10 days before the release of the consumer. If the consumer has a legal guardian, the facility shall notify the guardian before discharging the consumer from the facility. The legal guardian has discretion to determine where the consumer will be released, taking into consideration any discharge plan proposed by the facility assessment team. If the legal guardian does not inform the facility as to where the consumer will be released within 3 days after the date of notification, the facility shall discharge the consumer according to its proposed discharge plan.

3. A consumer who is involuntarily admitted to a program of community-based or outpatient services may be unconditionally released before the period specified in NRS 433A.310 when:

(a) The professional responsible for providing or coordinating the program of community-based or outpatient services for the consumer determines that the consumer ~~[has recovered from his or her mental illness or has improved to such an extent that the consumer is no longer considered to present a clear and present danger of harm to himself or herself or others;}~~ *is no longer a person in a mental health crisis;* and

(b) Under advisement from an evaluation team established under NRS 433A.250 or two persons professionally qualified in the field of psychiatric mental health, at least one of them being a physician, the professional responsible for providing or coordinating the program of community-based or outpatient services for the consumer authorizes the release and gives written notice to the admitting court at least 10 days before the release of the consumer from the program.

Sec. 28. NRS 433A.715 is hereby amended to read as follows:

433A.715 1. A court shall seal all court records relating to the admission and treatment of any person who was admitted, voluntarily or as the result of a noncriminal proceeding, to a public or private hospital, a mental health facility or a program of community-based or outpatient services in this State for the purpose of obtaining mental health treatment.

2. Except as otherwise provided in subsections 4, 5 and 6, a person or governmental entity that wishes to inspect records that are sealed pursuant to this section must file a petition with the court that sealed the records. Upon the filing of a petition, the court shall fix a



1 time for a hearing on the matter. The petitioner must provide notice
2 of the hearing and a copy of the petition to the person who is the
3 subject of the records. If the person who is the subject of the records
4 wishes to oppose the petition, the person must appear before the
5 court at the hearing. If the person appears before the court at the
6 hearing, the court must provide the person an opportunity to be
7 heard on the matter.

8 3. After the hearing described in subsection 2, the court may
9 order the inspection of records that are sealed pursuant to this
10 section if:

11 (a) A law enforcement agency must obtain or maintain
12 information concerning persons who have been admitted to a public
13 or private hospital, a mental health facility or a program of
14 community-based or outpatient services in this State pursuant to
15 state or federal law;

16 (b) A prosecuting attorney or an attorney who is representing the
17 person who is the subject of the records in a criminal action requests
18 to inspect the records; or

19 (c) The person who is the subject of the records petitions the
20 court to permit the inspection of the records by a person named in
21 the petition.

22 4. A governmental entity is entitled to inspect court records
23 that are sealed pursuant to this section without following the
24 procedure described in subsection 2 if:

25 (a) The governmental entity has made a conditional offer of
26 employment to the person who is the subject of the records;

27 (b) The position of employment conditionally offered to the
28 person concerns public safety, including, without limitation,
29 employment as a firefighter or peace officer;

30 (c) The governmental entity is required by law, rule, regulation
31 or policy to obtain the mental health records of each individual
32 conditionally offered the position of employment; and

33 (d) An authorized representative of the governmental entity
34 presents to the court a written authorization signed by the person
35 who is the subject of the records and notarized by a notary public or
36 judicial officer in which the person who is the subject of the records
37 consents to the inspection of the records.

38 5. Upon the request of a public or private hospital or a mental
39 health facility to which a person has been admitted in this State, the
40 court shall:

41 (a) Authorize the release of a copy of any order which was
42 entered by the court pursuant to paragraph (b) of subsection 1 of
43 NRS 433A.310 if:

44 (1) The request is in writing and includes the name and date
45 of birth of the person who is the subject of the requested order; and



(2) The hospital or facility certifies that:

(I) The person who is the subject of the requested order is, at the time of the request, admitted to the hospital or facility and is being treated for an alleged mental illness; and

(II) The requested order is necessary to improve the care which is being provided to the person who is the subject of the order.

(b) Place the request in the record under seal.

6. Upon its own order, any court of this State may inspect court records that are sealed pursuant to this section without following the procedure described in subsection 2 if the records are necessary and relevant for the disposition of a matter pending before the court. The court may allow a party in the matter to inspect the records without following the procedure described in subsection 2 if the court deems such inspection necessary and appropriate.

7. Following the sealing of records pursuant to this section, the admission of the person who is the subject of the records to the public or private hospital, mental health facility or program of community-based or outpatient services, is deemed never to have occurred, and the person may answer accordingly any question related to its occurrence, except in connection with:

(a) An application for a permit to carry a concealed firearm pursuant to the provisions of NRS 202.3653 to 202.369, inclusive;

(b) A transfer of a firearm; or

(c) An application for a position of employment described in subsection 4.

8. *A court may disclose information contained in a record sealed pursuant to this section to a provider of health care to assist with treatment provided to the consumer.*

9. As used in this section:

(a) "Firefighter" means a person who is a salaried employee of a fire-fighting agency and whose principal duties are to control, extinguish, prevent and suppress fires. As used in this paragraph, "fire-fighting agency" means a public fire department, fire protection district or other agency of this State or a political subdivision of this State, the primary functions of which are to control, extinguish, prevent and suppress fires.

(b) "Peace officer" has the meaning ascribed to it in NRS 289.010.

(c) *"Provider of health care" has the meaning ascribed to it in NRS 629.031.*

(d) "Seal" means placing records in a separate file or other repository not accessible to the general public.

Sec. 29. NRS 433A.750 is hereby amended to read as follows:

433A.750 1. A person who:



(a) Without probable cause for believing a person ~~to be mentally ill~~ *is a person in a mental health crisis* causes or conspires with or assists another to cause the involuntary court-ordered admission of the person under this chapter; or

(b) Causes or conspires with or assists another to cause the denial to any person of any right accorded to the person under this chapter,

is guilty of a category D felony and shall be punished as provided in NRS 193.130.

2. Unless a greater penalty is provided in subsection 1, a person who knowingly and willfully violates any provision of this chapter regarding the admission of a person to, or discharge of a person from, a public or private mental health facility or a program of community-based or outpatient services is guilty of a gross misdemeanor.

3. A person who, without probable cause for believing another person ~~to be mentally ill~~ *is a person in a mental health crisis*, executes a petition, application or certificate pursuant to this chapter, by which the person secures or attempts to secure the apprehension, hospitalization, detention, admission or restraint of the person alleged to be ~~mentally ill~~ *a person in a mental health crisis*, or any physician, psychiatrist, licensed psychologist, advanced practice registered nurse or other person professionally qualified in the field of psychiatric mental health who knowingly makes any false certificate or application pursuant to this chapter as to the mental condition of any person is guilty of a category D felony and shall be punished as provided in NRS 193.130.

Sec. 30. NRS 449A.245 is hereby amended to read as follows:
449A.245 1. Chemical restraint may only be used on a person with a disability who is a patient at a facility if:

(a) The patient has been diagnosed as a person ~~with~~ *in a mental illness* *health crisis*, as defined in NRS 433A.115, and is receiving mental health services from a facility;

(b) The chemical restraint is administered to the patient while he or she is under the care of the facility;

(c) An emergency exists that necessitates the use of chemical restraint;

(d) A medical order authorizing the use of chemical restraint is obtained from the patient's attending physician, psychiatrist or advanced practice registered nurse;

(e) The physician, psychiatrist or advanced practice registered nurse who signed the order required pursuant to paragraph (d) examines the patient not later than 1 working day immediately after the administration of the chemical restraint; and



(f) The chemical restraint is administered by a person licensed to administer medication.

2. If chemical restraint is used on a person with a disability who is a patient, the use of the procedure must be reported as a denial of rights pursuant to NRS 449A.263, regardless of whether the use of the procedure is authorized by statute. The report must be made not later than 1 working day after the procedure is used.

Sec. 31. 1. The amendatory provisions of NRS 433A.140, as amended by section 8 of this act, apply to any person:

(a) Who has been admitted to a public or private mental health facility; and

(b) Whose status is that of a voluntary consumer on or after January 1, 2020, regardless of the date on which he or she was admitted.

2. The amendatory provisions of NRS 433A.145, 433A.150 and 433A.310, as amended by sections 9, 10 and 22 of this act, respectively, apply to any person:

(a) Who has been admitted to a public or private mental health facility; and

(b) Whose status is that of an emergency consumer on or after January 1, 2020, regardless of the date on which he or she was admitted.

Sec. 32. The Legislative Counsel shall, in preparing the Nevada Revised Statutes, use the authority set forth in subsection 10 of NRS 220.120 to substitute appropriately the term "person in a mental health crisis" for the term "person with mental illness" as previously used in chapter 433A of NRS.

Sec. 33. This act becomes effective upon passage and approval.

