

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 625*

Short Title: Amend MH/DD/SA Statutes/Rename Facilities.-AB (Public)

Sponsors: Representatives Insko; Adams and Alexander.

Referred to: Mental Health Reform.

March 14, 2007

A BILL TO BE ENTITLED

AN ACT TO AMEND THE MENTAL HEALTH, DEVELOPMENTAL
DISABILITIES, AND SUBSTANCE ABUSE SERVICES STATUTES AND TO
RENAME MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND
SUBSTANCE ABUSE SERVICES FACILITIES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 122C-3 is amended by adding the following new
subdivisions to read:

"(13e) 'Eligible clinical social worker.' – A licensed Clinical Social Worker who is licensed by the North Carolina Social Work Certification and Licensure Board and has successfully completed a training course and passed an examination pertaining to the first level commitment examinations described in G.S. 122C-261 through G.S. 122C-263 and G.S. 122C-281 through G.S. 122C-283. The Secretary of Health and Human Services shall adopt rules pertaining to a uniform training curriculum and examination. The eligible clinical social worker must have 24-hour access to supervision from a physician or eligible psychologist and must consult with and document the receipt of approval of the physician or eligible psychologist prior to releasing an individual from a commitment petition. This consultation may be via voice, video, or face to face.

(13f) 'Eligible psychiatric nurse.' – A Psychiatric-Mental Health Clinical Nurse Specialist in Advanced Practice or a Psychiatric-Mental Health Nurse Practitioner who is licensed by the North Carolina Board of Nursing and has successfully completed a training course and passed an examination pertaining to the first level commitment examinations described in G.S. 122C-261 through G.S. 122C-263 and G.S. 122C-281 through G.S. 122C-283. The Secretary of Health and Human Services shall adopt rules pertaining to a uniform training

1 curriculum and examination. The eligible psychiatric nurse must have
2 24-hour access to supervision from a physician or eligible psychologist
3 and must consult with and document the receipt of approval of the
4 physician or eligible psychologist prior to releasing an individual from
5 a commitment petition. This consultation may be via voice, video, or
6 face to face.

7 (13g) 'Eligible clinical addictions specialist.' – A masters level Licensed
8 Clinical Addictions Specialist who is licensed as such by the North
9 Carolina Substance Abuse Professional Practice Board and has
10 successfully completed a training course and passed an examination
11 pertaining to the first level commitment examinations described in
12 G.S. 122C-261 through G.S. 122C-263 and G.S. 122C-281 through
13 G.S. 122C-283. The Secretary of Health and Human Services shall
14 adopt rules pertaining to a uniform training curriculum and
15 examination. The eligible clinical addictions specialist must have 24-
16 hour access to supervision from a physician or eligible psychologist
17 and must consult with and document receipt of approval of the
18 physician or eligible psychologist prior to releasing an individual from
19 a commitment petition. This consultation may be via voice, video, or
20 face to face."

21 **SECTION 1.(b)** G.S. 122C-112.1 is amended by adding the following new
22 subdivisions to read:

23 "(34) Develop and adopt rules to implement a standardized statewide fee
24 schedule and sliding fee scale policy for implementation by LMEs and
25 providers.

26 (35) Adopt rules to standardize processes of mental health, developmental
27 disabilities, and substance abuse services providers and ensure that
28 LMEs monitor and provide technical assistance to providers in
29 accordance with these rules."

30 **SECTION 2.** G.S. 122C-146 reads as rewritten:

31 **"§ 122C-146. Fee for service.**

32 The area authority and its contractual agencies shall ~~prepare fee schedules~~
33 implement the standardized fee schedule and sliding fee scale policy developed by the
34 Secretary for services and shall make every reasonable effort to collect appropriate
35 reimbursement for costs in providing these services from individuals or entities able to
36 pay, including insurance and third-party payment, except that individuals may not be
37 charged for free services, as required in "The Amendments to the Education of the
38 Handicapped Act", P.L. 99-457, provided to eligible infants and toddlers and their
39 families. This exemption from charges does not exempt insurers or other third-party
40 payors from being charged for payment for these services, if the person who is legally
41 responsible for any eligible infant or toddler is first advised that the person may or may
42 not grant permission for the insurer or other payor to be billed for the free services.
43 However, no individual may be refused services because of an inability to pay. All
44 funds collected from fees from area authority operated services shall be used for the

1 fiscal operation or capital improvements of the area authority's programs. The collection
2 of fees by an area authority may not be used as justification for reduction or
3 replacement of the budgeted commitment of local tax revenue. All funds collected from
4 fees by contractual provider agencies shall be used to provide services to target
5 population consumers."

6 **SECTION 3.** G.S. 122C-181(a) reads as rewritten:

7 "(a) Except as provided in subsection (b) of this section, the Secretary shall
8 operate the following facilities:

9 (1) ~~For the mentally ill:~~Psychiatric Hospitals:

- 10 a. Cherry Hospital;
11 ~~b. Dorothea Dix Hospital;~~
12 ~~c. John Umstead Hospital; and~~
13 a1. Central Regional Hospital; and
14 ~~d. Broughton Hospital; and~~
15 b1. Broughton Hospital.

16 (2) ~~For the mentally retarded:~~Developmental Centers:

- 17 a. Caswell Developmental Center;
18 ~~b. O'Berry Center;~~
19 c. Murdoch Developmental Center; and
20 c1. J. Iverson Riddle Developmental Center.
21 ~~d. Western Carolina Center; and~~
22 ~~e. Black Mountain Center; and~~

23 (3) ~~For substance abusers:~~Alcohol and Drug Treatment Centers:

- 24 a. Walter B. Jones Alcohol and Drug Abuse Treatment ~~Center at~~
25 ~~Greenville;~~Center;
26 ~~b. Alcohol and Drug Abuse Treatment Center at John Umstead~~
27 ~~Hospital; and~~
28 b1. R.J. Blackley Alcohol and Drug Abuse Treatment Center; and
29 c. Julian F. Keith Alcohol and Drug Abuse Treatment ~~Center; and~~
30 Center.

31 (4) ~~As special care facilities:~~Neuro-Medical Treatment Centers:

- 32 a. North Carolina Special Care Center;
33 ~~b. Whitaker School; and~~
34 ~~c. Wright School.~~
35 a1. Wilson Neuro-Medical Treatment Center;
36 b1. Black Mountain Neuro-Medical Treatment Center; and
37 c1. O'Berry Neuro-Medical Treatment Center.

38 (5) Residential Programs for Children:

- 39 a. Whitaker School; and
40 b. Wright School."

41 **SECTION 4.(a)** G.S. 122C-205(d) reads as rewritten:

42 "§ 122C-205. Return of clients to 24-hour facilities.

43 ...

1 (d) In the situations described in subsections (a) and (b) of this section, the
2 responsible professional shall also notify or cause to be notified as soon as practicable:

- 3 (1) The next of kin of the client or legally responsible person for the
4 client;
5 (2) The clerk of superior court of the county of commitment of the client;
6 (3) The area authority of the county of residence of the client, if
7 appropriate;
8 (4) ~~The physician or eligible psychologist~~physician, eligible psychologist,
9 eligible clinical social worker, eligible masters level psychiatric nurse,
10 or eligible clinical addictions specialist who performed the first
11 examination for a commitment of the client, if appropriate; and
12 (5) Any official who has placed a detainer on a client as described in
13 subdivision (a)(5) of this section

14 of the escape or breach of condition of the client's release upon occurrence of either
15 action and of his subsequent return to the facility."

16 **SECTION 4.(b)** G.S. 122C-261 reads as rewritten:

17 **"§ 122C-261. Affidavit and petition before clerk or magistrate when immediate**
18 **hospitalization is not necessary; custody order.**

19 (a) Anyone who has knowledge of an individual who is mentally ill and either (i)
20 dangerous to self, as defined in G.S. 122C-3(11)a., or dangerous to others, as defined in
21 G.S. 122C-3(11)b., or (ii) in need of treatment in order to prevent further disability or
22 deterioration that would predictably result in dangerousness, may appear before a clerk
23 or assistant or deputy clerk of superior court or a magistrate and execute an affidavit to
24 this effect, and petition the clerk or magistrate for issuance of an order to take the
25 respondent into custody for examination by a ~~physician or eligible~~
26 ~~psychologist~~physician, eligible psychologist, eligible clinical social worker, eligible
27 masters level psychiatric nurse, or eligible clinical addictions specialist. The affidavit
28 shall include the facts on which the affiant's opinion is based. If the affiant has
29 knowledge or reasonably believes that the respondent, in addition to being mentally ill,
30 is also mentally retarded, this fact shall be stated in the affidavit. Jurisdiction under this
31 subsection is in the clerk or magistrate in the county where the respondent resides or is
32 found.

33 (b) If the clerk or magistrate finds reasonable grounds to believe that the facts
34 alleged in the affidavit are true and that the respondent is probably mentally ill and
35 either (i) dangerous to self, as defined in G.S. 122C-3(11)a., or dangerous to others, as
36 defined in G.S. 122C-3(11)b., or (ii) in need of treatment in order to prevent further
37 disability or deterioration that would predictably result in dangerousness, the clerk or
38 magistrate shall issue an order to a law enforcement officer or any other person
39 authorized under G.S. 122C-251 to take the respondent into custody for examination by
40 a ~~physician or eligible psychologist~~physician, eligible psychologist, eligible clinical
41 social worker, eligible masters level psychiatric nurse, or eligible clinical addictions
42 specialist.

43 If the clerk or magistrate finds that, in addition to probably being mentally ill, the
44 respondent is also probably mentally retarded, the clerk or magistrate shall contact the

1 area authority before issuing a custody order and the area authority shall designate the
2 facility to which the respondent is to be taken for examination by a ~~physician or eligible~~
3 ~~psychologist, physician, eligible psychologist, eligible clinical social worker, eligible~~
4 masters level psychiatric nurse, or eligible clinical addictions specialist. The clerk or
5 magistrate shall provide the petitioner and the respondent, if present, with specific
6 information regarding the next steps that will occur for the respondent.

7 (c) If the clerk or magistrate issues a custody order, the clerk or magistrate shall
8 also make inquiry in any reliable way as to whether the respondent is indigent within
9 the meaning of G.S. 7A-450. A magistrate shall report the result of this inquiry to the
10 clerk.

11 (d) If the affiant is a ~~physician or eligible psychologist, physician, eligible~~
12 ~~psychologist, eligible clinical social worker, eligible masters level psychiatric nurse, or~~
13 eligible clinical addictions specialist, the affiant may execute the affidavit before any
14 official authorized to administer oaths. This affiant is not required to appear before the
15 clerk or magistrate for this purpose. This affiant shall file the affidavit with the clerk or
16 magistrate by delivering to the clerk or magistrate the original affidavit or a copy in
17 paper form that is printed through the facsimile transmission of the affidavit. If the
18 affidavit is filed through facsimile transmission, the affiant shall mail the original
19 affidavit no later than five days after the facsimile transmission of the affidavit to the
20 clerk or magistrate to be filed by the clerk or magistrate with the facsimile copy of the
21 affidavit. This affiant's examination shall comply with the requirements of the initial
22 examination as provided in G.S. 122C-263(c). If the ~~physician or eligible psychologist~~
23 physician, eligible psychologist, eligible clinical social worker, eligible masters level
24 psychiatric nurse, or eligible clinical addictions specialist recommends outpatient
25 commitment and the clerk or magistrate finds probable cause to believe that the
26 respondent meets the criteria for outpatient commitment, the clerk or magistrate shall
27 issue an order that a hearing before a district court judge be held to determine whether
28 the respondent will be involuntarily committed. The ~~physician or eligible psychologist~~
29 physician, eligible psychologist, eligible clinical social worker, eligible masters level
30 psychiatric nurse, or eligible clinical addictions specialist shall provide the respondent
31 with written notice of any scheduled appointment and the name, address, and telephone
32 number of the proposed outpatient treatment physician or center. If the ~~physician or~~
33 ~~eligible psychologist~~ physician, eligible psychologist, eligible clinical social worker,
34 eligible masters level psychiatric nurse, or eligible clinical addictions specialist
35 recommends inpatient commitment and the clerk or magistrate finds probable cause to
36 believe that the respondent meets the criteria for inpatient commitment, the clerk or
37 magistrate shall issue an order for transportation to or custody at a 24-hour facility
38 described in G.S. 122C-252. However, if the clerk or magistrate finds probable cause to
39 believe that the respondent, in addition to being mentally ill, is also mentally retarded,
40 the clerk or magistrate shall contact the area authority before issuing the order and the
41 area authority shall designate the facility to which the respondent is to be transported. If
42 a ~~physician or eligible psychologist~~ physician, eligible psychologist, eligible clinical
43 social worker, eligible masters level psychiatric nurse, or eligible clinical addictions

1 specialist executes an affidavit for inpatient commitment of a respondent, a second
2 physician shall be required to perform the examination required by G.S. 122C-266.

3 (e) Upon receipt of the custody order of the clerk or magistrate or a custody order
4 issued by the court pursuant to G.S. 15A-1003, a law enforcement officer or other
5 person designated in the order shall take the respondent into custody within 24 hours
6 after the order is signed, and proceed according to G.S. 122C-263. The custody order is
7 valid throughout the State.

8 (f) When a petition is filed for an individual who is a resident of a single portal
9 area, the procedures for examination by a ~~physician or eligible psychologist-physician,~~
10 eligible psychologist, eligible clinical social worker, eligible masters level psychiatric
11 nurse, or eligible clinical addictions specialist as set forth in G.S. 122C-263 shall be
12 carried out in accordance with the area plan. Prior to issuance of a custody order for a
13 respondent who resides in an area authority with a single portal plan, the clerk or
14 magistrate shall communicate with the area authority to determine the appropriate
15 24-hour facility to which the respondent should be admitted according to the area plan
16 or to determine if there are more appropriate resources available through the area
17 authority to assist the petitioner or the respondent. When an individual from a single
18 portal area is presented for commitment at a 24-hour area or State facility directly, the
19 individual may not be accepted for admission until the facility notifies the area authority
20 and the area authority agrees to the admission. If the area authority does not agree to the
21 admission, it shall determine the appropriate 24-hour facility to which the individual
22 should be admitted according to the area plan or determine if there are more appropriate
23 resources available through the area authority to assist the individual. If the area
24 authority agrees to the admission, further planning of treatment for the client is the joint
25 responsibility of the area authority and the facility as prescribed in the area plan.

26 Notwithstanding the provisions of this section, in no event shall an individual known
27 or reasonably believed to be mentally retarded be admitted to a State psychiatric
28 hospital, except as follows:

- 29 (1) Persons described in G.S. 122C-266(b);
- 30 (2) Persons admitted pursuant to G.S. 15A-1321;
- 31 (3) Respondents who are so extremely dangerous as to pose a serious
32 threat to the community and to other patients committed to non-State
33 hospital psychiatric inpatient units, as determined by the Director of
34 the Division of Mental Health, Developmental Disabilities, and
35 Substance Abuse Services or his designee; and
- 36 (4) Respondents who are so gravely disabled by both multiple disorders
37 and medical fragility or multiple disorders and deafness that alternative
38 care is inappropriate, as determined by the Director of the Division of
39 Mental Health, Developmental Disabilities, and Substance Abuse
40 Services or his designee.

41 Individuals transported to a State facility for the mentally ill who are not admitted by
42 the facility may be transported by law enforcement officers or designated staff of the
43 State facility in State-owned vehicles to an appropriate 24-hour facility that provides
44 psychiatric inpatient care.

1 No later than 24 hours after the transfer, the responsible professional at the original
2 facility shall notify the petitioner, the clerk of court, and, if consent is granted by the
3 respondent, the next of kin, that the transfer has been completed.

4 (g) After July 1, 2007, the Local Management Entities involved in the First Level
5 Commitment Pilot Program, as specified in S.L. 2003-178 will be able to continue
6 operation under the guidelines of the Pilot until such time as administrative rules are
7 adopted. The Secretary of Health and Human Services shall adopt rules pursuant to this
8 section."

9 **SECTION 4.(c)** G.S. 122C-262(a), 122C-262(b), and 122C-262(c) read as
10 rewritten:

11 "**§ 122C-262. Special emergency procedure for individuals needing immediate**
12 **hospitalization.**

13 (a) Anyone, including a law enforcement officer, who has knowledge of an
14 individual who is subject to inpatient commitment according to the criteria of
15 G.S. 122C-261(a) and who requires immediate hospitalization to prevent harm to self or
16 others, may transport the individual directly to an area facility or other place, including
17 a State facility for the mentally ill, for examination by a ~~physician or eligible~~
18 ~~psychologist~~ physician, eligible psychologist, eligible clinical social worker, eligible
19 masters level psychiatric nurse, or eligible clinical addictions specialist in accordance
20 with G.S. 122C-263(c).

21 (b) Upon examination by the ~~physician or eligible psychologist,~~ physician,
22 eligible psychologist, eligible clinical social worker, eligible masters level psychiatric
23 nurse, or eligible clinical addictions specialist, if the individual meets the criteria
24 required in G.S. 122C-261(a), the ~~physician or eligible psychologist~~ physician, eligible
25 psychologist, eligible clinical social worker, eligible masters level psychiatric nurse, or
26 eligible clinical addictions specialist shall so certify in writing before any official
27 authorized to administer oaths. The certificate shall also state the reason that the
28 individual requires immediate hospitalization. If the ~~physician or eligible psychologist~~
29 physician, eligible psychologist, eligible clinical social worker, eligible masters level
30 psychiatric nurse, or eligible clinical addictions specialist knows or has reason to
31 believe that the individual is mentally retarded, the certificate shall so state.

32 (c) If the ~~physician or eligible psychologist~~ physician, eligible psychologist,
33 eligible clinical social worker, eligible masters level psychiatric nurse, or eligible
34 clinical addictions specialist executes the oath, appearance before a magistrate shall be
35 waived. The ~~physician or eligible psychologist~~ physician, eligible psychologist, eligible
36 clinical social worker, eligible masters level psychiatric nurse, or eligible clinical
37 addictions specialist shall send a copy of the certificate to the clerk of superior court by
38 the most reliable and expeditious means. If it cannot be reasonably anticipated that the
39 clerk will receive the copy within 24 hours, excluding Saturday, Sunday, and holidays,
40 of the time that it was signed, the ~~physician or eligible psychologist~~ physician, eligible
41 psychologist, eligible clinical social worker, eligible masters level psychiatric nurse, or
42 eligible clinical addictions specialist shall also communicate the findings to the clerk by
43 telephone.

44 ..."

1 SECTION 4.(d) G.S. 122C-263 reads as rewritten:

2 "**§ 122C-263. Duties of law-enforcement officer; first examination by ~~physician or~~**
3 **eligible psychologist, physician, eligible psychologist, eligible clinical**
4 **social worker, eligible masters level psychiatric nurse, or eligible clinical**
5 **addictions specialist.**

6 (a) Without unnecessary delay after assuming custody, the law enforcement
7 officer or the individual designated by the clerk or magistrate under G.S. 122C-251(g)
8 to provide transportation shall take the respondent to an area facility for examination by
9 a ~~physician or eligible psychologist;~~ physician, eligible psychologist, eligible clinical
10 social worker, eligible masters level psychiatric nurse, or eligible clinical addictions
11 specialist; if a ~~physician or eligible psychologist~~ physician, eligible psychologist,
12 eligible clinical social worker, eligible masters level psychiatric nurse, or eligible
13 clinical addictions specialist is not available in the area facility, the person designated to
14 provide transportation shall take the respondent to any ~~physician or eligible~~
15 ~~psychologist~~ physician, eligible psychologist, eligible clinical social worker, eligible
16 masters level psychiatric nurse, or eligible clinical addictions specialist locally
17 available. If a ~~physician or eligible psychologist~~ physician, eligible psychologist,
18 eligible clinical social worker, eligible masters level psychiatric nurse, or eligible
19 clinical addictions specialist is not immediately available, the respondent may be
20 temporarily detained in an area facility, if one is available; if an area facility is not
21 available, the respondent may be detained under appropriate supervision in the
22 respondent's home, in a private hospital or a clinic, in a general hospital, or in a State
23 facility for the mentally ill, but not in a jail or other penal facility.

24 (b) The examination set forth in subsection (a) of this section is not required if:

- 25 (1) The affiant who obtained the custody order is a ~~physician or eligible~~
26 ~~psychologist~~ physician, eligible psychologist, eligible clinical social
27 worker, eligible masters level psychiatric nurse, or eligible clinical
28 addictions specialist who recommends inpatient commitment;
29 (2) The custody order states that the respondent was charged with a
30 violent crime, including a crime involving assault with a deadly
31 weapon, and he was found incapable of proceeding; or
32 (3) Repealed by Session Laws 1987, c. 596, s. 3.

33 In any of these cases, the law-enforcement officer shall take the respondent directly to a
34 24-hour facility described in G.S. 122C-252.

35 (c) The ~~physician or eligible psychologist~~ physician, eligible psychologist,
36 eligible clinical social worker, eligible masters level psychiatric nurse, or eligible
37 clinical addictions specialist described in subsection (a) of this section shall examine the
38 respondent as soon as possible, and in any event within 24 hours, after the respondent is
39 presented for examination. The examination shall include but is not limited to an
40 assessment of the respondent's:

- 41 (1) Current and previous mental illness and mental retardation including,
42 if available, previous treatment history;
43 (2) Dangerousness to self, as defined in G.S. 122C-3(11)a. or others, as
44 defined in G.S. 122C-3(11)b.;

1 (3) Ability to survive safely without inpatient commitment, including the
2 availability of supervision from family, friends or others; and

3 (4) Capacity to make an informed decision concerning treatment.

4 (d) After the conclusion of the examination the ~~physician or eligible psychologist~~
5 physician, eligible psychologist, eligible clinical social worker, eligible masters level
6 psychiatric nurse, or eligible clinical addictions specialist shall make the following
7 determinations:

8 (1) If the ~~physician or eligible psychologist~~ physician, eligible
9 psychologist, eligible clinical social worker, eligible masters level
10 psychiatric nurse, or eligible clinical addictions specialist finds that:

11 a. The respondent is mentally ill;

12 b. The respondent is capable of surviving safely in the community
13 with available supervision from family, friends, or others;

14 c. Based on the respondent's psychiatric history, the respondent is
15 in need of treatment in order to prevent further disability or
16 deterioration that would predictably result in dangerousness as
17 defined by G.S. 122C-3(11); and

18 d. The respondent's current mental status or the nature of the
19 respondent's illness limits or negates the respondent's ability to
20 make an informed decision to seek voluntarily or comply with
21 recommended treatment.

22 The ~~physician or eligible psychologist~~ physician, eligible psychologist,
23 eligible clinical social worker, eligible masters level psychiatric nurse,
24 or eligible clinical addictions specialist finds shall so show on the
25 examination report and shall recommend outpatient commitment. In
26 addition the examining ~~physician or eligible psychologist~~ physician,
27 eligible psychologist, eligible clinical social worker, eligible masters
28 level psychiatric nurse, or eligible clinical addictions specialist shall
29 recommend inpatient commitment, shall show the name, address, and
30 telephone number of the proposed outpatient treatment physician or
31 center. The person designated in the order to provide transportation
32 shall return the respondent to the respondent's regular residence or,
33 with the respondent's consent, to the home of a consenting individual
34 located in the originating county, and the respondent shall be released
35 from custody.

36 (2) If the ~~physician or eligible psychologist~~ physician, eligible
37 psychologist, eligible clinical social worker, eligible masters level
38 psychiatric nurse, or eligible clinical addictions specialist finds that
39 the respondent is mentally ill and is dangerous to self, as defined in
40 G.S. 122C-3(11)a., or others, as defined in G.S. 122C-3(11)b., the
41 ~~physician or eligible psychologist~~ physician, eligible psychologist,
42 eligible clinical social worker, eligible masters level psychiatric nurse,
43 or eligible clinical addictions specialist shall recommend inpatient
44 commitment, and shall so show on the examination report. If, in

1 addition to mental illness and dangerousness, the physician or eligible
2 psychologist also finds that the respondent is known or reasonably
3 believed to be mentally retarded, this finding shall be shown on the
4 report. The law enforcement officer or other designated person shall
5 take the respondent to a 24-hour facility described in G.S. 122C-252
6 pending a district court hearing. If there is no area 24-hour facility and
7 if the respondent is indigent and unable to pay for care at a private
8 24-hour facility, the law enforcement officer or other designated
9 person shall take the respondent to a State facility for the mentally ill
10 designated by the Commission in accordance with
11 G.S. 143B-147(a)(1)a. for custody, observation, and treatment and
12 immediately notify the clerk of superior court of this action.

13 In the event an individual known or reasonably believed to be
14 mentally retarded is transported to a State facility for the mentally ill,
15 in no event shall that individual be admitted to that facility except as
16 follows:

- 17 a. Persons described in G.S. 122C-266(b);
- 18 b. Persons admitted pursuant to G.S. 15A-1321;
- 19 c. Respondents who are so extremely dangerous as to pose a
20 serious threat to the community and to other patients committed
21 to non-State hospital psychiatric inpatient units, as determined
22 by the Director of the Division of Mental Health,
23 Developmental Disabilities, and Substance Abuse Services or
24 his designee; and
- 25 d. Respondents who are so gravely disabled by both multiple
26 disorders and medical fragility or multiple disorders and
27 deafness that alternative care is inappropriate, as determined by
28 the Director of the Division of Mental Health, Developmental
29 Disabilities, and Substance Abuse Services or his designee.

30 Individuals transported to a State facility for the mentally ill who
31 are not admitted by the facility may be transported by law enforcement
32 officers or designated staff of the State facility in State-owned vehicles
33 to an appropriate 24-hour facility that provides psychiatric inpatient
34 care.

35 No later than 24 hours after the transfer, the responsible
36 professional at the original facility shall notify the petitioner, the clerk
37 of court, and, if consent is granted by the respondent, the next of kin,
38 that the transfer has been completed.

- 39 (3) If the ~~physician or eligible psychologist~~ physician, eligible
40 psychologist, eligible clinical social worker, eligible masters level
41 psychiatric nurse, or eligible clinical addictions specialist finds that
42 neither condition described in subdivisions (1) or (2) of this subsection
43 exists, the proceedings shall be terminated. The person designated in
44 the order to provide transportation shall return the respondent to the

1 respondent's regular residence or, with the respondent's consent, to the
2 home of a consenting individual located in the originating county and
3 the respondent shall be released from custody.

4 (e) The findings of the ~~physician or eligible psychologist~~ physician, eligible
5 psychologist, eligible clinical social worker, eligible masters level psychiatric nurse, or
6 eligible clinical addictions specialist and the facts on which they are based shall be in
7 writing in all cases. The ~~physician or eligible psychologist~~ physician, eligible
8 psychologist, eligible clinical social worker, eligible masters level psychiatric nurse, or
9 eligible clinical addictions specialist shall send a copy of the findings to the clerk of
10 superior court by the most reliable and expeditious means. If it cannot be reasonably
11 anticipated that the clerk will receive the copy within 48 hours of the time that it was
12 signed, the ~~physician or eligible psychologist~~ physician, eligible psychologist, eligible
13 clinical social worker, eligible masters level psychiatric nurse, or eligible clinical
14 addictions specialist shall also communicate his findings to the clerk by telephone.

15 (f) When outpatient commitment is recommended, the examining ~~physician or~~
16 ~~eligible psychologist,~~ physician, eligible psychologist, eligible clinical social worker,
17 eligible masters level psychiatric nurse, or eligible clinical addictions specialist, if
18 different from the proposed outpatient treatment physician or center, shall give the
19 respondent a written notice listing the name, address, and telephone number of the
20 proposed outpatient treatment physician or center and directing the respondent to appear
21 at the address at a specified date and time. The examining ~~physician or eligible~~
22 ~~psychologist~~ physician, eligible psychologist, eligible clinical social worker, eligible
23 masters level psychiatric nurse, or eligible clinical addictions specialist before the
24 appointment shall notify by telephone the designated outpatient treatment physician or
25 center and shall send a copy of the notice and his examination report to the physician or
26 center.

27 (g) The ~~physician or eligible psychologist,~~ physician, eligible psychologist,
28 eligible clinical social worker, eligible masters level psychiatric nurse, or eligible
29 clinical addictions specialist, at the completion of the examination, shall provide the
30 respondent with specific information regarding the next steps that will occur."

31 **SECTION 4.(e)** G.S. 122C-264(a), 122C-264(b), and 122C-264(b1) read as
32 rewritten:

33 "**§ 122C-264. Duties of clerk of superior court and the district attorney.**

34 (a) Upon the clerk of superior court's receipt of a ~~physician's or eligible~~
35 ~~psychologist's~~ finding by a physician, eligible psychologist, eligible clinical social
36 worker, eligible masters level psychiatric nurse, or eligible clinical addictions specialist
37 that the respondent meets the criteria of G.S. 122C-263(d)(1) and that outpatient
38 commitment is recommended, the clerk of superior court of the county where the
39 petition was initiated, upon direction of a district court judge, shall calendar the matter
40 for hearing and shall notify the respondent, the proposed outpatient treatment physician
41 or center, and the petitioner of the time and place of the hearing. The petitioner may file
42 a written waiver of his right to notice under this subsection with the clerk of court.

43 (b) Upon receipt by the clerk of superior court of a ~~physician's or eligible~~
44 ~~psychologist's~~ finding by a physician, eligible psychologist, eligible clinical social

1 worker, eligible masters level psychiatric nurse, or eligible clinical addictions specialist
2 that a respondent meets the criteria of G.S. 122C-263(d)(2) and that inpatient
3 commitment is recommended, the clerk of superior court of the county where the
4 24-hour facility is located shall, after determination required by G.S. 122C-261(c) and
5 upon direction of a district court judge, assign counsel if necessary, calendar the matter
6 for hearing, and notify the respondent, his counsel, and the petitioner of the time and
7 place of the hearing. The petitioner may file a written waiver of his right to notice under
8 this subsection with the clerk of court.

9 (b1) Upon receipt by the clerk of superior court of a ~~physician's or eligible~~
10 ~~psychologist's~~ physician, eligible psychologist, eligible clinical social worker, eligible
11 masters level psychiatric nurse, or eligible clinical addictions specialist certificate that a
12 respondent meets the criteria of G.S. 122C-261(a) and that immediate hospitalization is
13 needed pursuant to G.S. 122C-262, the clerk of superior court of the county where the
14 treatment facility is located shall submit the certificate to the Chief District Court Judge.
15 The court shall review the certificate within 24 hours, excluding Saturday, Sunday, and
16 holidays, for a finding of reasonable grounds in accordance with 122C-261(b). The
17 clerk shall notify the treatment facility of the court's findings by telephone and shall
18 proceed as set forth in subsections (b), (c), and (f) of this section.

19 ..."

20 **SECTION 4.(f)** G.S. 122C-265(a) reads as rewritten:

21 "(a) If a respondent, who has been recommended for outpatient commitment by an
22 examining ~~physician or eligible psychologist~~ physician, eligible psychologist, eligible
23 clinical social worker, eligible masters level psychiatric nurse, or eligible clinical
24 addictions specialist different from the proposed outpatient treatment physician or
25 center, fails to appear for examination by the proposed outpatient treatment physician or
26 center at the designated time, the physician or center shall notify the clerk of superior
27 court who shall issue an order to a law-enforcement officer or other person authorized
28 under G.S. 122C-251 to take the respondent into custody and take him immediately to
29 the outpatient treatment physician or center for evaluation. The custody order is valid
30 throughout the State. The law-enforcement officer may wait during the examination and
31 return the respondent to his home after the examination."

32 **SECTION 4.(g)** G.S. 122C-266(e) reads as rewritten:

33 "(e) If the 24-hour facility described in G.S. 122C-252 or G.S. 122C-262 is the
34 facility in which the first examination by a ~~physician or eligible psychologist~~ physician,
35 eligible psychologist, eligible clinical social worker, eligible masters level psychiatric
36 nurse, or eligible clinical addictions specialist occurred and is the same facility in which
37 the respondent is held, the second examination shall occur not later than the following
38 regular working day."

39 **SECTION 4.(h)** G.S. 122C-273 (a)(2) reads as rewritten:

40 "(a) Unless prohibited by Chapter 90 of the General Statutes, if the commitment
41 order directs outpatient treatment, the outpatient treatment physician may prescribe or
42 administer, or the center may administer, to the respondent reasonable and appropriate
43 medication and treatment that are consistent with accepted medical standards.

44 ...

1 (2) If the respondent fails to comply, but does not clearly refuse to
2 comply, with all or part of the prescribed treatment after reasonable
3 effort to solicit the respondent's compliance, the physician, the
4 physician's designee, or the center may request the court to order the
5 respondent taken into custody for the purpose of examination. Upon
6 receipt of this request, the clerk shall issue an order to a
7 law-enforcement officer to take the respondent into custody and to
8 take him immediately to the designated outpatient treatment physician
9 or center for examination. The custody order is valid throughout the
10 State. The law-enforcement officer shall turn the respondent over to
11 the custody of the physician or center who shall conduct the
12 examination and then release the respondent. The law-enforcement
13 officer may wait during the examination and return the respondent to
14 his home after the examination. An examination conducted under this
15 subsection in which a ~~physician or eligible psychologist~~ physician,
16 eligible psychologist, eligible clinical social worker, eligible masters
17 level psychiatric nurse, or eligible clinical addictions specialist
18 determines that the respondent meets the criteria for inpatient
19 commitment may be substituted for the first examination required by
20 G.S. 122C-263 if the clerk or magistrate issues a custody order within
21 six hours after the examination was performed."

22 **SECTION 4.(i)** G.S. 122C-281 reads as rewritten:

23 **"§ 122C-281. Affidavit and petition before clerk or magistrate; custody order.**

24 (a) Any individual who has knowledge of a substance abuser who is dangerous to
25 himself or others may appear before a clerk or assistant or deputy clerk of superior court
26 or a magistrate, execute an affidavit to this effect, and petition the clerk or magistrate
27 for issuance of an order to take the respondent into custody for examination by a
28 ~~physician or eligible psychologist.~~ physician, eligible psychologist, eligible clinical
29 social worker, eligible masters level psychiatric nurse, or eligible clinical addictions
30 specialist.

31 The affidavit shall include the facts on which the affiant's opinion is based.
32 Jurisdiction under this subsection is in the clerk or magistrate in the county where the
33 respondent resides or is found.

34 (b) If the clerk or magistrate finds reasonable grounds to believe that the facts
35 alleged in the affidavit are true and that the respondent is probably a substance abuser
36 and dangerous to himself or others, he shall issue an order to a law-enforcement officer
37 or any other person authorized by G.S. 122C-251 to take the respondent into custody for
38 examination by a ~~physician or eligible psychologist.~~ physician, eligible psychologist,
39 eligible clinical social worker, eligible masters level psychiatric nurse, or eligible
40 clinical addictions specialist.

41 (c) If the clerk or magistrate issues a custody order, he shall also make inquiry in
42 any reliable way as to whether the respondent is indigent within the meaning of
43 G.S. 7A-450. A magistrate shall report the result of this inquiry to the clerk.

1 (d) If the affiant is a ~~physician or eligible psychologist~~, physician, eligible
2 psychologist, eligible clinical social worker, eligible masters level psychiatric nurse, or
3 eligible clinical addictions specialist, he may execute the affidavit before any official
4 authorized to administer oaths. He is not required to appear before the clerk or
5 magistrate for this purpose. His examination shall comply with the requirements of the
6 initial examination as provided in G.S. 122C-283(c). If the ~~physician or eligible~~
7 ~~psychologist~~ physician, eligible psychologist, eligible clinical social worker, eligible
8 masters level psychiatric nurse, or eligible clinical addictions specialist recommends
9 commitment and the clerk or magistrate finds probable cause to believe that the
10 respondent meets the criteria for commitment, he shall issue an order for transportation
11 to or custody at a 24-hour facility or release the respondent, pending hearing, as
12 described in G.S. 122C-283(d)(1). If a ~~physician or eligible psychologist~~ physician,
13 eligible psychologist, eligible clinical social worker, eligible masters level psychiatric
14 nurse, or eligible clinical addictions specialist executes an affidavit for commitment of a
15 respondent, a second qualified professional shall perform the examination required by
16 G.S. 122C-285.

17 (e) Upon receipt of the custody order of the clerk or magistrate, a
18 law-enforcement officer or other person designated in the order shall take the
19 respondent into custody within 24 hours after the order is signed. The custody order is
20 valid throughout the State.

21 (f) When a petition is filed for an individual who is a resident of a single portal
22 area, the procedures for examination by a ~~physician or eligible psychologist~~ physician,
23 eligible psychologist, eligible clinical social worker, eligible masters level psychiatric
24 nurse, or eligible clinical addictions specialist as set forth in G.S. 122C-283(c) shall be
25 carried out in accordance with the area plan. When an individual from a single portal
26 area is presented for commitment at a facility directly, he may be accepted for
27 admission in accordance with G.S. 122C-285. The facility shall notify the area authority
28 within 24 hours of admission and further planning of treatment for the individual is the
29 joint responsibility of the area authority and the facility as prescribed in the area plan.

30 (g) After July 1, 2007, the Local Management Entities involved in the First Level
31 Commitment Pilot Program, as specified in S.L. 2003-178, will be able to continue
32 operation under the guidelines of the Pilot until such time as administrative rules are
33 adopted. The Secretary of Health and Human Services shall adopt rules pursuant to this
34 section."

35 **SECTION 4.(j)** G.S. 122C-282 reads as rewritten:

36 "**§ 122C-282. Special emergency procedure for violent individuals.**

37 When an individual subject to commitment under the provisions of this Part is also
38 violent and requires restraint and when delay in taking him to a ~~physician or eligible~~
39 ~~psychologist~~ physician, eligible psychologist, eligible clinical social worker, eligible
40 masters level psychiatric nurse, or eligible clinical addictions specialist for examination
41 would likely endanger life or property, a law-enforcement officer may take the person
42 into custody and take him immediately before a magistrate or clerk. The
43 law-enforcement officer shall execute the affidavit required by G.S. 122C-281 and in
44 addition shall swear that the respondent is violent and requires restraint and that delay in

1 taking the respondent to a ~~physician or eligible psychologist~~ physician, eligible
2 psychologist, eligible clinical social worker, eligible masters level psychiatric nurse, or
3 eligible clinical addictions specialist for an examination would endanger life or
4 property.

5 If the clerk or magistrate finds by clear, cogent, and convincing evidence that the
6 facts stated in the affidavit are true, that the respondent is in fact violent and requires
7 restraint, and that delay in taking the respondent to a ~~physician or eligible psychologist~~
8 physician, eligible psychologist, eligible clinical social worker, eligible masters level
9 psychiatric nurse, or eligible clinical addictions specialist for an examination would
10 endanger life or property, he shall order the law-enforcement officer to take the
11 respondent directly to a 24-hour facility described in G.S. 122C-252.

12 Respondents received at a 24-hour facility under the provisions of this section shall
13 be examined and processed thereafter in the same way as all other respondents under
14 this Part."

15 **SECTION 4.(k)** G.S. 122C-283 reads as rewritten:

16 "**§ 122C-283. Duties of law-enforcement officer; first examination by ~~physician or~~**
17 **eligible psychologist, physician, eligible psychologist, eligible clinical**
18 **social worker, eligible masters level psychiatric nurse, or eligible clinical**
19 **addictions specialist.**

20 (a) Without unnecessary delay after assuming custody, the law-enforcement
21 officer or the individual designated by the clerk or magistrate under G.S. 122C-251(g)
22 to provide transportation shall take the respondent to an area facility for examination by
23 a ~~physician or eligible psychologist; if a physician or eligible psychologist~~ physician,
24 eligible psychologist, eligible clinical social worker, eligible masters level psychiatric
25 nurse, or eligible clinical addictions specialist; if a physician, eligible psychologist,
26 eligible clinical social worker, eligible masters level psychiatric nurse, or eligible
27 clinical addictions specialist is not available in the area facility, he shall take the
28 respondent to any ~~physician or eligible psychologist~~ physician, eligible psychologist,
29 eligible clinical social worker, eligible masters level psychiatric nurse, or eligible
30 clinical addictions specialist locally available. If a ~~physician or eligible psychologist~~
31 physician, eligible psychologist, eligible clinical social worker, eligible masters level
32 psychiatric nurse, or eligible clinical addictions specialist is not immediately available,
33 the respondent may be temporarily detained in an area facility if one is available; if an
34 area facility is not available, he may be detained under appropriate supervision, in his
35 home, in a private hospital or a clinic, or in a general hospital, but not in a jail or other
36 penal facility.

37 (b) The examination set forth in subsection (a) of this section is not required if:

38 (1) The affiant who obtained the custody order is a ~~physician or eligible~~
39 ~~psychologist;~~ physician, eligible psychologist, eligible clinical social
40 worker, eligible masters level psychiatric nurse, or eligible clinical
41 addictions specialist; or

42 (2) The respondent is in custody under the special emergency procedure
43 described in G.S. 122C-282.

1 In these cases when it is recommended that the respondent be detained in a 24-hour
2 facility, the law-enforcement officer shall take the respondent directly to a 24-hour
3 facility described in G.S. 122C-252.

4 (c) The ~~physician or eligible psychologist~~ physician, eligible psychologist,
5 eligible clinical social worker, eligible masters level psychiatric nurse, or eligible
6 clinical addictions specialist described in subsection (a) of this section shall examine the
7 respondent as soon as possible, and in any event within 24 hours, after the respondent is
8 presented for examination. The examination shall include but is not limited to an
9 assessment of the respondent's:

10 (1) Current and previous substance abuse including, if available, previous
11 treatment history; and

12 (2) Dangerousness to himself or others as defined in G.S. 122C-3(11).

13 (d) After the conclusion of the examination the ~~physician or eligible psychologist~~
14 physician, eligible psychologist, eligible clinical social worker, eligible masters level
15 psychiatric nurse, or eligible clinical addictions specialist shall make the following
16 determinations:

17 (1) If the ~~physician or eligible psychologist~~ physician, eligible
18 psychologist, eligible clinical social worker, eligible masters level
19 psychiatric nurse, or eligible clinical addictions specialist finds that the
20 respondent is a substance abuser and is dangerous to himself or others,
21 he shall recommend commitment and whether the respondent should
22 be released or be held at a 24-hour facility pending hearing and shall
23 so show on [the] his examination report. Based on the ~~physician's or~~
24 ~~eligible psychologist's recommendation~~ recommendation of the
25 physician, eligible psychologist, eligible clinical social worker, eligible
26 masters level psychiatric nurse, or eligible clinical addictions specialist
27 the law-enforcement officer or other designated individual shall take
28 the respondent to a 24-hour facility described in G.S. 122C-252 or
29 release the respondent.

30 (2) If the ~~physician or eligible psychologist~~ physician, eligible
31 psychologist, eligible clinical social worker, eligible masters level
32 psychiatric nurse, or eligible clinical addictions specialist finds that the
33 condition described in subdivision (1) of this subsection does not exist,
34 the respondent shall be released and the proceedings terminated.

35 (e) The findings of the ~~physician or eligible psychologist~~ physician, eligible
36 psychologist, eligible clinical social worker, eligible masters level psychiatric nurse, or
37 eligible clinical addictions specialist and the facts on which they are based shall be in
38 writing in all cases. A copy of the findings shall be sent to the clerk of superior court by
39 the most reliable and expeditious means. If it cannot be reasonably anticipated that the
40 clerk will receive the copy within 48 hours of the time that it was signed, the physician
41 or eligible psychologist shall also communicate his findings to the clerk by telephone."

42 **SECTION 4.(I)** G.S. 122C-284(a) reads as rewritten:

43 "(a) Upon receipt by the clerk of superior court of the findings of a ~~physician's or~~
44 ~~eligible psychologist's finding~~ physician, eligible psychologist, eligible clinical social

1 worker, eligible masters level psychiatric nurse, or eligible clinical addictions specialist
2 that a respondent is a substance abuser and dangerous to himself or others and that
3 commitment is recommended, the clerk of superior court of the county where the
4 facility is located, if the respondent is held in a 24-hour facility, or the clerk of superior
5 court where the petition was initiated shall upon direction of a district court judge assign
6 counsel, calendar the matter for hearing, and notify the respondent, his counsel, and the
7 petitioner of the time and place of the hearing. The petitioner may file a written waiver
8 of his right to notice under this subsection with the clerk of court."

9 **SECTION 4.(m)** G.S. 122C-285(b) reads as rewritten:

10 "(b) If the 24-hour facility described in G.S. 122C-252 is the facility in which the
11 first examination by a ~~physician or eligible psychologist~~ physician, eligible
12 psychologist, eligible clinical social worker, eligible masters level psychiatric nurse, or
13 eligible clinical addictions specialist occurred and is the same facility in which the
14 respondent is held, the second examination must occur not later than the following
15 regular working day."

16 **SECTION 5.** This act is effective when it becomes law.