

LAWS OF DELAWARE
VOLUME 83
CHAPTER 432
151st GENERAL ASSEMBLY
FORMERLY
SENATE BILL NO. 255

AN ACT TO AMEND TITLES 13 AND 16 OF THE DELAWARE CODE RELATING TO THE VOLUNTARY ADMISSION PROCEDURE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 2521 of Title 13, the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2521. Powers and duties of the DSCYF as custodian of the child.

Upon the Court granting custody to DSCYF, DSCYF shall be vested with the following powers and duties:

(1) To provide for appropriate placement of the child, within or outside of this State, unless otherwise ordered by Court or controlled by statute, with reasonable notice prior to any change in placement given to the child's attorney and Court Appointed Special Advocate volunteer;

(2) To consent to medical care for the child, including medical examination, medical treatment including surgical procedures and mental health treatment other than inpatient psychiatric hospitalization, except as provided in 5003(f) of Title 16. DSCYF shall make reasonable efforts to obtain the consent of the parent, and to notify the child's attorney and Court Appointed Special Advocate volunteer, prior to obtaining medical care;

Section 2. Amend § 5003, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5003. Voluntary admission procedure.

(a) The Department may establish, under the direction and supervision of the Delaware Psychiatric Center, criteria for voluntary admissions to designated psychiatric treatment facilities and hospitals that differ from the criteria for involuntary admissions to designated psychiatric treatment facilities and hospitals.

(b) A psychiatrist or licensed independent practitioner who is credentialed and authorized by the Division of Substance Abuse and Mental Health may admit to a designated psychiatric treatment facility or hospital for observation, diagnosis, care and treatment any individual who is a person with an apparent mental condition or who has symptoms of a mental condition and who requests admission subject to the payment of charges for care, maintenance and support as provided in § 5020 of this title.

(c) Prior to admitting a person on a voluntary basis, the designated psychiatric treatment facility or hospital must notify the person verbally and in writing of the legal consequences of voluntary admission in language that is understandable to the person, and reasonably believe that the person comprehends such consequences, including but not limited to:

(1) The person will not to be allowed to leave the hospital grounds without permission of the treating psychiatrist;

(2) If the person seeks discharge prior to the discharge recommended by the person's treatment team, the person's treating psychiatrist may initiate the involuntary inpatient commitment process if the psychiatrist believes the individual presents a danger to self or danger to others; and

(3) Unless the involuntary commitment process is initiated, the person will not have the hospitalization reviewed by the court.

(d) The attending psychiatrist shall discharge a voluntary patient when in-patient treatment is no longer clinically indicated.

(e) A voluntary patient may make a written request to the attending psychiatrist to be discharged at any time. Upon the receipt of such request, the attending psychiatrist shall discharge the person within 72 hours from the receipt of the request, except if a psychiatrist or licensed independent practitioner certifies that the voluntary patient is currently demonstrating behaviors believed to be dangerous to self or dangerous to others and these behaviors are documented in the medical record, an emergency detention may be initiated for the person. No person may be involuntarily hospitalized unless in compliance with the emergency detention procedures set forth in § 5004 of this title.

(f) If any applicant is under the age of 18 years old, the following provisions shall apply:

(1) In the case of voluntary admission to a designated psychiatric treatment facility or hospital, consent to treatment shall be given only by a ~~parent or parent~~, legal guardian, or the Department's Director or Deputy Director of

the Division of Family Services when the applicant is in DSCYF custody pursuant to Chapter 25 of Title 13. The request for admission to the designated psychiatric treatment facility or hospital shall be signed by either the applicant's ~~parent~~ ~~or parent~~, legal guardian, or the Department's Director or Deputy Director of the Division of Family Services when the applicant is in DSCYF custody pursuant to Chapter 25 of Title 13.

(2) A voluntary patient or the voluntary patient's ~~parent or parent~~, legal guardian, or the Department's Director or Deputy Director of the Division of Family Services when the applicant is in DSCYF custody pursuant to Chapter 25 of Title 13 may make a written request to the attending psychiatrist to be discharged at any time.

a. The provisions of subsection (e) of this section shall apply in such instances, except that the voluntary patient's discharge may be conditioned upon the consent of the voluntary patient's ~~parent or parent~~, legal guardian, or the Department's Director or Deputy Director of the Division of Family Services when the applicant is in DSCYF custody pursuant to Chapter 25 of Title 13.

b. If the voluntary patient's ~~parent or parent~~, legal guardian, of a voluntary patient, guardian, or the Department's Director or Deputy Director of the Division of Family Services when the voluntary patient is in DSCYF custody pursuant to Chapter 25 of Title 13 requests the patient's discharge from a treatment facility against the advice of the treatment team and administrator of the facility, the facility may initiate involuntary treatment procedures as provided for under this chapter. The provisions of this paragraph shall apply as if the patient had made the request.

Approved September 21, 2022