
By: **Delegate C. Davis**

Introduced and read first time: March 1, 2004

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Mental Hygiene Law - Rights of Mentally Ill Individuals**

3 FOR the purpose of providing mentally ill individuals certain substantive and
4 procedural rights relating to prescription medications, voluntary and
5 involuntary admissions, emergency evaluations, involuntary admissions judicial
6 proceedings, clinical review of involuntary admissions, and social worker
7 consultations; and generally relating to the substantive and procedural rights of
8 mentally ill individuals.

9 BY adding to

10 Article - Health - General

11 Section 10-1601 through 10-1608, inclusive, to be under the new subtitle

12 "Subtitle 16. Mentally Ill Individuals' Bill of Rights"

13 Annotated Code of Maryland

14 (2000 Replacement Volume and 2003 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article - Health - General**

18 **SUBTITLE 16. MENTALLY ILL INDIVIDUALS' BILL OF RIGHTS.**

19 10-1601.

20 (A) EVERY MENTALLY ILL INDIVIDUAL SHALL BE AFFORDED THE
21 OPPORTUNITY TO REACH THAT INDIVIDUAL'S FULL POTENTIAL.

22 (B) A MENTAL DISORDER DIAGNOSIS OR ENROLLMENT IN A NONRESIDENTIAL
23 SERVICES PROGRAM FOR INDIVIDUALS WHO HAVE MENTAL DISORDERS DOES NOT
24 CONFER CUSTODIAL JURISDICTION OVER THE INDIVIDUAL TO A STATE FACILITY OR
25 VETERANS' ADMINISTRATION HOSPITAL IN THE STATE UNLESS OTHERWISE
26 AUTHORIZED BY LAW.

1 (C) MENTAL RETARDATION MAY NOT BE INFERRED FROM A DIAGNOSIS OF A
2 MENTAL DISORDER.

3 10-1602.

4 (A) IF A MENTALLY ILL INDIVIDUAL IS PRESCRIBED A LOW-COST OR NO-COST
5 MEDICATION ON AN OUTPATIENT BASIS, THE NAME OF THE DRUG, ITS GENERIC
6 EQUIVALENT, THE PHARMACEUTICAL REPRESENTATIVE, AND THE
7 PHARMACEUTICAL COMPANY PROVIDING THE PRESCRIPTION SHALL BE RECORDED
8 IN THAT INDIVIDUAL'S MEDICAL RECORD.

9 (B) IF A MENTALLY ILL INDIVIDUAL IS PRESCRIBED MEDICATION ON AN
10 INPATIENT BASIS:

11 (1) THE NAME OF THE PHARMACEUTICAL COMPANY PROVIDING THE
12 MEDICATION AND THE VISITING SCHEDULES OF THE PHARMACEUTICAL
13 REPRESENTATIVES WHO DELIVER THE MEDICATION SHALL BE RECORDED IN THE
14 INDIVIDUAL'S MEDICAL RECORD;

15 (2) THE INDIVIDUAL SHALL BE INFORMED OF ALL KNOWN SIDE
16 EFFECTS OF THE MEDICATION PRIOR TO INGESTING THE MEDICATION;

17 (3) THE INDIVIDUAL MAY DECLINE THE MEDICATION WITHOUT
18 REPERCUSSION;

19 (4) THE INDIVIDUAL'S MEDICAL RECORD SHALL REFLECT THE
20 INDIVIDUAL'S COMPLETE MEDICATION REGIMEN; AND

21 (5) IF, AFTER INGESTING THE MEDICATION, THE INDIVIDUAL EXHIBITS
22 SIDE EFFECTS THAT ARE NOT RECOGNIZED SIDE EFFECTS OF THAT MEDICATION,
23 THE HEALTH CARE PROVIDER SHALL REPORT THE NEW SIDE EFFECTS TO THE
24 UNITED STATES FOOD AND DRUG ADMINISTRATION.

25 10-1603.

26 (A) A FACILITY MAY NOT ADMIT A MENTALLY ILL INDIVIDUAL UNLESS:

27 (1) THE INDIVIDUAL PRESENTS A DANGER TO THE LIFE OR SAFETY OF
28 THE INDIVIDUAL OR OF OTHERS; AND

29 (2) A PHYSICIAN:

30 (I) PERSONALLY EXAMINED THE INDIVIDUAL;

31 (II) ATTEMPTED, AT LEAST ONCE, TO MAKE EYE CONTACT WITH
32 THE INDIVIDUAL; AND

33 (III) ATTEMPTED, AT LEAST ONCE, TO ENGAGE IN CONVERSATION
34 WITH THE INDIVIDUAL.

1 (B) EVERY EXAMINATION OF THE MENTALLY ILL INDIVIDUAL BY A PHYSICIAN
2 SHALL BE RECORDED IN THE INDIVIDUAL'S MEDICAL RECORD.

3 (C) THE AVAILABILITY OF BED SPACE OR INSURANCE COVERAGE MAY NOT BE
4 CRITERIA FOR INVOLUNTARY ADMISSION.

5 (D) A MENTALLY ILL INDIVIDUAL MAY NOT BE COMPELLED OR COERCED INTO
6 SIGNING A WAIVER FORM EITHER BEFORE OR AFTER THE INVOLUNTARY ADMISSION.
7 10-1604.

8 (A) (1) THE COURT, ON PETITION FOR EMERGENCY EVALUATION OF AN
9 INDIVIDUAL, SHALL ENSURE THAT THE REQUIREMENTS OF THIS SUBTITLE ARE MET,
10 TO INCLUDE:

11 (I) WHETHER THE PETITIONER EXAMINED THE INDIVIDUAL AND
12 THE DATE OF THE EXAMINATION; AND

13 (II) WHETHER THE INDIVIDUAL PRESENTS A DANGER TO THE LIFE
14 OR SAFETY OF THE INDIVIDUAL OR OF OTHERS.

15 (2) THE COURT SHALL EXAMINE THE ORIGIN AND VERACITY OF ANY
16 STATEMENT IN THE PETITION THAT THE INDIVIDUAL CONTINUES TO TAKE
17 PRESCRIBED MEDICATION.

18 (3) THE PETITION SHALL DISCLOSE THE IDENTITY OF ANY INDIVIDUAL
19 RELIED ON IN PREPARING THE PETITION, INCLUDING THE INDIVIDUAL'S
20 RELATIONSHIP TO THE PETITIONER.

21 (4) IF ANY STATEMENT IN THE EMERGENCY EVALUATION PETITION IS
22 DETERMINED TO BE DELIBERATELY FALSIFIED, THE EVALUEE IS ENTITLED TO NO
23 LESS THAN \$5,000 LIQUIDATED DAMAGES FROM THE PETITIONER.

24 (B) (1) THE FORMS USED BY THE COURT FOR PURPOSES OF EMERGENCY
25 EVALUATION PETITIONS SHALL BE IN COMPLIANCE WITH THIS TITLE.

26 (2) (I) THE PETITION SHALL BE FILED IN DUPLICATE.

27 (II) THE FIRST COPY OF THE PETITION SHALL BE FILED IN THE
28 PERMANENT MEDICAL RECORD OF THE EVALUEE AND THE SECOND COPY SHALL BE
29 FILED IN THE PEACE OFFICER'S RECORD OF THE INCIDENT THAT GAVE RISE TO THE
30 PETITION.

31 (3) THE PETITION SHALL LIST ONLY THOSE MEDICATIONS PRESCRIBED
32 TO THE EVALUEE AS OF THE DATE OF THE EMERGENCY EVALUATION.

33 (C) (1) DURING THE EMERGENCY EVALUATION OF AN INDIVIDUAL, THE
34 INDIVIDUAL'S COMPLIANCE AND ABILITY TO COMPLETE INTAKE PROCEDURES
35 SHALL BE RECORDED.

1 (2) (I) THE SEARCH OF AN EVALUEE'S PERSONAL BELONGINGS SHALL
2 BE WITNESSED BY AT LEAST ONE OTHER INDIVIDUAL EMPLOYED BY THE FACILITY.

3 (II) 1. AN INVENTORY OF THE EVALUEE'S PERSONAL
4 BELONGINGS SHALL BE PREPARED AND COSIGNED BY AT LEAST TWO INDIVIDUALS
5 EMPLOYED BY THE FACILITY.

6 2. THE INVENTORY SHALL BECOME PART OF THE EVALUEE'S
7 MEDICAL RECORD.

8 (III) CIGARETTES MAY NOT BE WITHHELD FROM THE EVALUEE AND
9 SHALL REMAIN WITH THE EVALUEE'S PERSONAL BELONGINGS.

10 (D) (1) THE EVALUEE SHALL BE SERVED A FULL MEAL WITHIN 2 HOURS OF
11 THE EVALUEE'S ADMITTANCE AND A MINIMUM OF EVERY 4 HOURS THEREAFTER.

12 (2) THE EMERGENCY EVALUATION MAY NOT PROCEED WITHOUT
13 DOCUMENTATION THAT THE EVALUEE WAS OFFERED AND SERVED A FULL MEAL
14 PRIOR TO THE EXAMINATION.

15 (E) THE RESULTS OF THE EMERGENCY EVALUATION SHALL ACCOMPANY THE
16 PETITION AND SHALL BE AVAILABLE TO RESIDENT AND ATTENDING PHYSICIANS.

17 (F) (1) IF THE EVALUEE IS RELEASED FROM THE EMERGENCY
18 EVALUATION, A SECOND EVALUATION MAY NOT BE INITIATED ABSENT A
19 DEMONSTRATION OF NEW SYMPTOMS, AS REQUIRED UNDER THIS SUBTITLE.

20 (2) ON THE EVALUEE'S RELEASE, THE EVALUEE SHALL BE PROVIDED
21 TRANSPORTATION AS EXPEDITIOUSLY AS POSSIBLE, AT THE FACILITY'S EXPENSE,
22 BACK TO THE EVALUEE'S POINT OF ORIGIN OR, IN THE ALTERNATIVE, TO A POINT OF
23 SAFETY.

24 10-1605.

25 (A) THIS SECTION APPLIES TO HEARINGS FOR INVOLUNTARY ADMISSION.

26 (B) ALL EMERGENCY EVALUATIONS AND THE FINDINGS FROM EACH
27 EVALUATION SHALL BE DISCLOSED TO THE HEARING OFFICER WITHIN 30 DAYS OF
28 THE EVALUATION.

29 (C) (1) THE RECORD SHALL DISCLOSE WHETHER ONE OR MORE
30 CERTIFYING PHYSICIANS DID IN FACT EXAMINE THE EVALUEE, AS REQUIRED UNDER
31 § 10-1604 OF THIS SUBTITLE.

32 (2) AN ATTENDING PHYSICIAN MAY NOT DELEGATE THE PHYSICIAN'S
33 AUTHORITY AS A CERTIFYING PHYSICIAN TO A RESIDENT PHYSICIAN OR ANY OTHER
34 INDIVIDUAL.

1 (D) (1) THE PETITION FOR THE EMERGENCY EVALUATION EXAMINED BY
2 THE HEARING OFFICER SHALL BE DISCLOSED TO THE EVALUEE AND THE EVALUEE'S
3 COUNSEL AT LEAST 1 HOUR IN ADVANCE OF THE HEARING.

4 (2) THE CONTENTS OF THE PETITION SHALL BE REVIEWED AND
5 DISCLOSED ON THE TAPE OR TRANSCRIPT OF THE HEARING AND THE EVALUEE OR
6 THE EVALUEE'S COUNSEL SHALL BE AFFORDED THE OPPORTUNITY TO RESPOND TO
7 THE CONTENTS OF THE PETITION.

8 (E) (1) A FIRST-YEAR RESIDENT MAY NOT BE CONSIDERED AN EXPERT
9 WITNESS.

10 (2) THE EVALUEE'S COMPLIANCE AND ABILITY TO COMPLETE INTAKE
11 PROCEDURES SHALL BE ADMITTED INTO EVIDENCE.

12 (3) NURSING NOTES ARE NOT ADMISSIBLE INTO EVIDENCE UNLESS THE
13 SOURCE OF THE WRITTEN NOTES IS DISCLOSED AT THE HEARING.

14 (4) THE ACADEMIC CREDENTIALS AND TITLES OF HEARSAY WITNESSES
15 SHALL BE DISCLOSED AND ENTERED INTO THE RECORD.

16 (5) THE EMERGENCY EVALUATION PETITIONER SHALL BE AVAILABLE
17 FOR CROSS-EXAMINATION AND, IF UNAVAILABLE TO TESTIFY, ANY TESTIMONY OF
18 THE PETITIONER OTHERWISE PRESENTED AS EVIDENCE SHALL BE DISREGARDED.

19 (6) STANDARDS FOR EFFECTIVENESS OF COUNSEL IN A CRIMINAL TRIAL
20 SHALL BE APPLICABLE IN A HEARING FOR INVOLUNTARY ADMISSION.

21 (F) IF ANY STATEMENT MADE DURING THE HEARING IS DETERMINED TO BE
22 DELIBERATELY FALSIFIED OR GROSSLY INACCURATE, THE EVALUEE IS ENTITLED
23 TO NO LESS THAN \$5,000 LIQUIDATED DAMAGES.

24 10-1606.

25 (A) IN THIS SECTION, "CLINICAL REVIEW PANEL" MEANS AN
26 INTERDISCIPLINARY PANEL THAT REVIEWS THE PLACEMENT OF THE EMERGENCY
27 EVALUEE WITHIN THE FACILITY AND REVIEWS THE PROPRIETY OF THE CONTINUED
28 DETENTION OF THE EMERGENCY EVALUEE.

29 (B) (1) A CLINICAL REVIEW PANEL SHALL CONSIST OF AT LEAST SIX
30 MEMBERS, WHICH SHALL INCLUDE:

31 (I) TWO ATTENDING PHYSICIANS AT THE FACILITY;

32 (II) NO MORE THAN ONE RESIDENT PHYSICIAN; AND

33 (III) NO MORE THAN ONE INDIVIDUAL WITHOUT A MEDICAL
34 DEGREE.

1 (2) AN ATTENDING PHYSICIAN MAY NOT DELEGATE THE PHYSICIAN'S
2 AUTHORITY AS A CLINICAL REVIEW PANEL MEMBER TO A RESIDENT PHYSICIAN OR
3 ANY OTHER INDIVIDUAL.

4 (3) EACH MEMBER OF A CLINICAL REVIEW PANEL SHALL EXAMINE THE
5 EVALUEE BEFORE REVIEWING THE EVALUEE'S PLACEMENT OR CONTINUED
6 DETENTION.

7 (4) IF ANY SOCIAL WORKER SERVES AS A MEMBER OF A CLINICAL
8 REVIEW PANEL, THE SOCIAL WORKER SHALL BE CERTIFIED.

9 (5) THE CHAIRMAN OF A CLINICAL REVIEW PANEL MAY NOT HAVE
10 INITIATED A PETITION FOR AN EMERGENCY EVALUATION OF THE EVALUEE BEFORE
11 THE PANEL.

12 (C) THE ATTENDANCE RECORD OF A CLINICAL REVIEW PANEL SHALL BE
13 ENTERED INTO THE EVALUEE'S MEDICAL RECORD AT THE TIME OF THE REVIEW
14 SESSION AND SHALL BE INITIALED BY EACH MEMBER ATTENDING THE EVALUEE'S
15 REVIEW SESSION.

16 (D) A RECORDING OF A CLINICAL REVIEW PANEL'S SESSIONS SHALL BE
17 PRESERVED FOR POTENTIAL APPELLATE REVIEW.

18 10-1607.

19 (A) IF A PATIENT ELECTS TO BE TREATED IN A STATE FACILITY INSTEAD OF
20 INDEFINITE DETENTION IN A LOCAL FACILITY OR PLACEMENT IN A GROUP HOME, A
21 SECOND INVOLUNTARY COMMITMENT FORM IS NOT REQUIRED TO BE FILED.

22 (B) ON ADMISSION TO A STATE FACILITY AS DESCRIBED IN SUBSECTION (A)
23 OF THIS SECTION, THE MEDICAL RECORD SHALL DISCLOSE THAT THE PATIENT'S
24 ADMISSION IS VOLUNTARY.

25 (C) (1) THE ADMISSION AND DISCHARGE SUMMARIES FROM THE
26 ORIGINATING FACILITY SHALL BE MADE AVAILABLE TO THE PATIENT ON THE
27 PATIENT'S REQUEST.

28 (2) THE STATE FACILITY SHALL PERMIT THE PATIENT TO CORRECT ANY
29 FACTUAL ERRORS CONTAINED IN THE ADMISSION SUMMARY OR DISCHARGE
30 SUMMARY.

31 10-1608.

32 (A) A SOCIAL WORKER EMPLOYED BY A STATE FACILITY SHALL BE
33 REGULATED BY THE STATE BOARD OF SOCIAL WORK EXAMINERS.

34 (B) ALL SESSIONS BETWEEN A SOCIAL WORKER AND A PATIENT IN A STATE
35 FACILITY SHALL BE CONDUCTED IN PRIVATE.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2004.